

JAN 20 2017

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# A BILL FOR AN ACT

RELATING TO UNCLAIMED LIFE INSURANCE BENEFITS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 431, Hawaii Revised Statutes, is  
2 amended by adding a new part to article 10D to be appropriately  
3 designated and to read as follows:

4           "PART       .    **UNCLAIMED LIFE INSURANCE BENEFITS ACT**

5           **§431:10D-A Short title.** This part may be known and cited  
6 as the Unclaimed Life Insurance Benefits Act.

7           **§431:10D-B Purpose.** The purpose of this part is to  
8 require recognition of the escheat or unclaimed property  
9 statutes of the adopting state and require the complete and  
10 proper disclosure, transparency, and accountability relating to  
11 any method of payment for life insurance death benefits  
12 regulated by the State's insurance department, commissioner, or  
13 other appropriate entity or individual.

14           **§431:10D-C Definitions.** As used in this part, the  
15 following definitions apply:



1 "Contract" means an annuity contract; provided that the  
2 term "contract" shall not include an annuity used to fund an  
3 employment-based retirement plan or program where:

- 4 (1) The insurer does not perform the record keeping  
5 services; or
- 6 (2) The insurer is not committed by terms of the annuity  
7 contract to pay death benefits to the beneficiaries of  
8 specific plan participants.

9 "Death master file" means the United States Social Security  
10 Administration's death master file or any other database or  
11 service that is at least as comprehensive as the United States  
12 Social Security Administration's death master file for  
13 determining that a person has reportedly died.

14 "Death master file match" means a search of the death  
15 master file that results in a match of the social security  
16 number or the name and date of birth of an insured, annuity  
17 owner, or retained asset account holder.

18 "Knowledge of death" means:

- 19 (1) Receipt of an original or valid copy of a certified  
20 death certificate; or



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1           (2) A death master file match validated by the insurer in  
2           accordance with section 431:10D-D(a)(1)(A).

3           "Policy" means any policy or certificate of life insurance  
4 that provides a death benefit; provided that the term "policy"  
5 shall not include:

6           (1) Any policy or certificate of life insurance that  
7           provides a death benefit under an employee benefit  
8           plan:

9           (A) Subject to the federal Employee Retirement Income  
10           Security Act of 1974, title 29 United States Code  
11           section 1002, as periodically amended; or

12           (B) Under any federal employee benefit program;

13           (2) Any policy or certificate of life insurance that is  
14           used to fund a pre-need funeral contract or  
15           prearrangement;

16           (3) Any policy or certificate of credit life or accidental  
17           death insurance; or

18           (4) Any policy issued to a group master policyholder for  
19           which the insurer does not provide record keeping  
20           services.



1 "Record keeping services" means those circumstances under  
2 which the insurer has agreed with a group policy or contract  
3 customer to be responsible for obtaining, maintaining, and  
4 administering in its own or its agents' systems information  
5 about each individual insured under an insured's group insurance  
6 contract, or a line of coverage thereunder, at least the  
7 following information:

- 8 (1) Social security number or name and date of birth;
- 9 (2) Beneficiary designation information;
- 10 (3) Coverage eligibility;
- 11 (4) Benefit amount; and
- 12 (5) Premium payment status.

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

20 **§431:10D-D Insurer conduct.** (a) An insurer shall perform  
21 a comparison of its insureds' in-force policies, contracts, and



1 retained asset accounts against a death master file, on at least  
2 a semi-annual basis, by using the full death master file once  
3 and thereafter using the death master file update files for  
4 future comparisons to identify potential matches of its  
5 insureds. For those potential matches identified as a result of  
6 a death master file match:

7 (1) The insurer shall, within ninety days of a death  
8 master file match:

9 (A) Complete a good faith effort, which shall be  
10 documented by the insurer, to confirm the death  
11 of the insured or retained asset account holder  
12 against other available records and information;

13 (B) Determine whether benefits are due in accordance  
14 with the applicable policy or contract; provided  
15 that if benefits are due in accordance with the  
16 applicable policy or contract:

17 (i) Use good faith efforts, which shall be  
18 documented by the insurer, to locate the  
19 beneficiary or beneficiaries; and

20 (ii) Provide the appropriate claims forms or  
21 instructions to the beneficiary or



1 beneficiaries to make a claim, including the  
2 need to provide an official death  
3 certificate, if applicable under the policy  
4 or contract;

5 (2) With respect to group life insurance, insurers shall  
6 confirm the possible death of an insured when the  
7 insurers maintain at least the following information  
8 of those covered under a policy or certificate:

- 9 (A) Social security number or name and date of birth;
- 10 (B) Beneficiary designation information;
- 11 (C) Coverage eligibility;
- 12 (D) Benefit amount; and
- 13 (E) Premium payment status;

14 (3) Every insurer shall implement procedures to account  
15 for the following:

- 16 (A) Common nicknames, initials used in lieu of a  
17 first or middle name, use of a middle name,  
18 compound first and middle names, and interchanged  
19 first and middle names;



1 (B) Compound last names, maiden or married names, and  
2 hyphens, blank spaces, or apostrophes in last  
3 names;

4 (C) Transposition of the month and date portions of  
5 the date of birth; and

6 (D) Incomplete social security number;

7 (4) To the extent permitted by law, the insurer may  
8 disclose minimum necessary personal information about  
9 the insured or beneficiary to a person who the insurer  
10 reasonably believes may be able to assist the insurer  
11 with locating the beneficiary or a person otherwise  
12 entitled to payment of the claim proceeds.

13 (b) An insurer or its service provider shall not charge  
14 any beneficiary or other authorized representative for any fees  
15 or costs associated with a death master file search or  
16 verification of a death master file match conducted pursuant to  
17 this section.

18 (c) The benefits from a policy, contract, or retained  
19 asset account, plus any applicable accrued contractual interest,  
20 shall first be payable to the designated beneficiaries or owners  
21 and in the event said beneficiaries or owners cannot be found,



1 shall escheat to the State as unclaimed property pursuant to  
2 chapter 523A. Interest payable under section 431:10-243 shall  
3 not be payable as unclaimed property under chapter 523A.

4 (d) An insurer shall notify the director of finance upon  
5 the expiration of the statutory time period for escheat that:

6 (1) A policy or contract beneficiary or retained asset  
7 account holder has not submitted a claim with the  
8 insurer; and

9 (2) The insurer has complied with subsection (a) and has  
10 been unable, after good faith efforts documented by  
11 the insurer, to contact the retained asset account  
12 holder, beneficiary, or beneficiaries.

13 (e) Upon providing notice pursuant to subsection (d), an  
14 insurer shall immediately submit the unclaimed policy or  
15 contract benefits or unclaimed retained asset accounts, plus any  
16 applicable accrued interest, to the director of finance.

17 (f) Failure to meet any requirement of this section with  
18 such frequency as to constitute a general business practice  
19 shall be a violation of section 480-2. Nothing in this section  
20 shall be construed to create or imply a private cause of action  
21 for a violation of this section."



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1 SECTION 2. In codifying the new sections added by section  
 2 1 of this Act, the revisor of statutes shall substitute  
 3 appropriate section numbers for the letters used in designating  
 4 the new sections in this Act.

5 SECTION 3. This Act shall take effect on January 1, 2018.  
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INTRODUCED BY:

J. Kelani Eglash

Michelle A. Sudani

Rosalyn de Baker

Will Egan

S. J. Price  
~~AND C. Finch-Gene~~

B

Donna [Signature]  
BTG

Isaac [Signature]



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**Report Title:**

Life Insurance; Unclaimed Life Insurance Benefits; Unclaimed Life Insurance Benefits Act

**Description:**

Adopts the National Conference of Insurance Legislators' Model Unclaimed Life Insurance Benefits Act, which requires life insurers to conduct database searches using the federal Social Security Administration's death master file or similar database to determine whether an insured has died. Requires life insurers to use good faith efforts to locate any beneficiaries to a policy, contract, or retained asset account. Effective January 1, 2018.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

