
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



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 (29 U.S.C. 1001, et. seq.),
11 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; and
- 13 (5) The insurer comparison of in-force policies,
14 contracts, and retained asset accounts shall be
15 conducted first to the extent that such records are
16 available electronically and then using the most
17 easily accessible insurer records for records that are
18 not available electronically.
- 19 Nothing in this subsection shall limit the insurer from
20 requesting a valid death certificate as part of any claims
21 validation process.



1 (b) An insurer or its service provider shall not charge
2 any beneficiary or other authorized representative for any fees
3 or costs associated with a death master file search or
4 verification of a death master file match conducted pursuant to
5 this section.

6 (c) The benefits from a policy, contract, or retained
7 asset account, plus any applicable accrued contractual interest,
8 shall first be payable to the designated beneficiaries or owners
9 and in the event said beneficiaries or owners cannot be found,
10 shall escheat to the State as unclaimed property pursuant to
11 chapter 523A. Interest payable under section 431:10-243 shall
12 not be payable as unclaimed property under chapter 523A.

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

15 (1) A policy or contract beneficiary or retained asset
16 account holder has not submitted a claim with the
17 insurer; and

18 (2) The insurer has complied with subsection (a) and has
19 been unable, after good faith efforts documented by
20 the insurer, to contact the retained asset account
21 holder, beneficiary, or beneficiaries.



1 (e) The commissioner may adopt such rules and regulations
2 as may be reasonably necessary to implement the provisions of
3 this section.

4 (f) The commissioner may, in the commissioner's reasonable
5 discretion, make an order:

6 (1) Limiting an insurer's death master file comparisons
7 required under subsection (a) to the insurer's
8 electronic searchable files or approving a plan and
9 timeline for conversion of the insurer's files to
10 electronic searchable files;

11 (2) Exempting an insurer from the death master file
12 comparisons required under subsection (a) or
13 permitting an insurer to perform such comparisons less
14 frequently than semi-annually upon a demonstration of
15 hardship by the insurer; or

16 (3) Phasing-in compliance with this section according to a
17 plan and timeline approved by the commissioner.

18 (g) Failure to meet any requirement of this section with
19 such frequency as to constitute a general business practice
20 shall be a violation of section 480-2. Nothing in this section



1 shall be construed to create or imply a private cause of action
2 for a violation of this section."

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

7 SECTION 3. This Act shall take effect on January 1, 2019.

8



Report Title:

Life Insurance; Unclaimed Life Insurance Benefits; Model
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. Authorizes the insurance commissioner to use discretion to limit, exempt, or phase-in compliance with requirements under certain circumstances. Effective 1/1/2019. (SD2)

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