

ACT 202

S.B. NO. 208

A Bill for an Act Relating to Unclaimed Life Insurance Benefits.

Be It Enacted by the Legislature of the State of Hawaii:

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

“PART . UNCLAIMED LIFE INSURANCE BENEFITS ACT

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

§431:10D-B Purpose. The purpose of this part is to require recognition of the escheat or unclaimed property statutes of this State and require the complete and proper disclosure, transparency, and accountability relating to any method of payment for life insurance death benefits regulated by the State’s insurance commissioner.

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

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

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

“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.

“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, annuity owner, or retained asset account holder.

“Knowledge of death” means:

- (1) Receipt of an original or valid copy of a certified death certificate; or
- (2) A death master file match validated by the insurer in accordance with section 431:10D-D(a)(1)(A).

“Policy” means any policy or certificate of life insurance that provides a death benefit; provided that the term “policy” shall not include:

- (1) Any policy or certificate of life insurance that provides a death benefit under an employee benefit plan:
 - (A) Subject to the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001, et. seq.), as periodically amended; or
 - (B) Under any federal employee benefit program;
- (2) Any policy or certificate of life insurance that is used to fund a pre-need funeral contract or prearrangement;
- (3) Any policy or certificate of credit life or accidental death insurance; or
- (4) Any policy issued to a group master policyholder for which the insurer does not provide record keeping services.

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

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

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

§431:10D-D Insurer conduct. (a) An insurer shall perform a comparison of its insureds’ in-force policies, contracts, and retained asset accounts against a death master file, on at least a semi-annual basis, by using the full death master

file once and thereafter using the death master file update files for future comparisons to identify potential matches of its insureds. For those potential matches identified as a result of a death master file match:

- (1) The insurer shall, within ninety days of a death master file match:
 - (A) Complete a good faith effort, which shall be documented by the insurer, to confirm the death of the insured or retained asset account holder against other available records and information;
 - (B) Determine whether benefits are due in accordance with the applicable policy or contract; provided that if benefits are due in accordance with the applicable policy or contract:
 - (i) Use good faith efforts, which shall be documented by the insurer, to locate the beneficiary or beneficiaries; and
 - (ii) Provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim, including the need to provide an official death certificate, if applicable under the policy or contract;
- (2) With respect to group life insurance, insurers shall confirm the possible death of an insured when the insurers maintain at least the following information of those covered under a policy or certificate:
 - (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;
- (3) Every insurer shall implement procedures to account for the following:
 - (A) Common nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names;
 - (B) Compound last names, maiden or married names, and hyphens, blank spaces, or apostrophes in last names;
 - (C) Transposition of the month and date portions of the date of birth; and
 - (D) Incomplete social security number;
- (4) 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 with locating the beneficiary or a person otherwise entitled to payment of the claim proceeds; and
- (5) The insurer comparison of in-force policies, contracts, and retained asset accounts shall be conducted first to the extent that such records are available electronically and then using the most easily accessible insurer records for records that are not available electronically.

Nothing in this subsection shall limit the insurer from requesting a valid death certificate as part of any claims validation process.

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

(c) The benefits from a policy, contract, or retained asset account, plus any applicable accrued contractual interest, shall first be payable to the designated beneficiaries or owners and in the event said beneficiaries or owners cannot be found, shall escheat to the State as unclaimed property pursuant to chap-

ter 523A. Interest payable under section 431:10-243 shall not be payable as unclaimed property under chapter 523A.

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

- (1) A policy or contract beneficiary or retained asset account holder has not submitted a claim with the insurer; and
- (2) The insurer has complied with subsection (a) and has been unable, after good faith efforts documented by the insurer, to contact the retained asset account holder, beneficiary, or beneficiaries.

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

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

- (1) Limiting an insurer's death master file comparisons required under subsection (a) to the insurer's electronic searchable files or approving a plan and timeline for conversion of the insurer's files to electronic searchable files;
- (2) Exempting an insurer from the death master file comparisons required under subsection (a) or permitting an insurer to perform such comparisons less frequently than semi-annually upon a demonstration of hardship by the insurer; or
- (3) Phasing-in compliance with this section according to a plan and timeline approved by the commissioner.

(g) Failure to meet any requirement of this section with such frequency as to constitute a general business practice shall constitute an unfair or deceptive act or practice under article 13. Nothing in this section shall be construed to create or imply a private cause of action for a violation of this section."

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

SECTION 3. This Act shall take effect upon its approval.

(Approved July 10, 2018.)