

2017 Regular Session

HOUSE BILL NO. 464

BY REPRESENTATIVE ROBBY CARTER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE/LIFE: Provides relative to the payment of claims on life insurance

1 AN ACT

2 To enact Part I-A of Chapter 6 of Title 22 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 22:1812 through 1814, relative to unclaimed life insurance
4 benefits; to provide for insurer searches of the Social Security Administration death
5 master file; to provide for insurer conduct upon finding a death master file match;
6 to provide for payment of benefits to beneficiaries; to provide for procedures to
7 transfer unclaimed funds to the state treasurer; to provide for an effective date; and
8 to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Part I-A of Chapter 6 of Title 22 of the Louisiana Revised Statutes of
11 1950, comprised of R.S. 22:1812 through 1814, is hereby enacted to read as follows:

12 PART I-A. UNCLAIMED LIFE INSURANCE BENEFITS LAW

13 §1812. Short title.

14 This Part shall be known and may be cited as the "Unclaimed Life Insurance
15 Benefits Law".

16 §1813. Definitions

17 As used in this Part, the following definitions apply:

18 (1) "Asymmetric conduct" means an insurer's use of the death master file
19 prior to January 1, 2018, in connection with searching for information regarding

1 whether the annuitants under the insurer's annuities might be deceased, but not in
2 connection with whether the insureds under its policies might be deceased.

3 (2)(a) "Contract" means an annuity contract.

4 (b) "Contract" shall not include any of the following:

5 (i) An annuity used to fund an employment-based retirement plan.

6 (ii) A program where the insurer does not perform the record keeping
7 services.

8 (iii) An annuity when the insurer is not committed by terms of the annuity
9 contract to pay death benefits to the beneficiaries of specific plan participants.

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

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

17 (5) "Knowledge of death" means either of the following:

18 (a) Receipt of an original or valid copy of a certified death certificate.

19 (b) A death master file match validated by the insurer in accordance with R.S.
20 22:1814.

21 (6)(a) "Policy" means any policy or certificate of life insurance that provides
22 a death benefit.

23 (b) "Policy" shall not include any of the following:

24 (i) Any policy or certificate of life insurance that provides a death benefit
25 under an employee benefit plan that is either of the following:

26 (aa) Subject to the Employee Retirement Income Security Act of 1974, 29
27 USC 1002, as periodically amended.

28 (bb) Under any federal employee benefit program.

1 (ii) Any policy or certificate of life insurance that is used to fund a pre-need
2 funeral contract or prearrangement.

3 (iii) Any policy or certificate of credit life or accidental death insurance.

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

6 (7) "Record keeping services" means those circumstances under which the
7 insurer has agreed with a group policy or contract customer to be responsible for
8 obtaining, maintaining, and administering in its own or its agents' systems
9 information about each individual insured under an insured's group insurance
10 contract, or a line of coverage thereunder, all of the following information:

11 (a) Social security number or name and date of birth.

12 (b) Beneficiary designation information.

13 (c) Coverage eligibility.

14 (d) Benefit amount.

15 (e) Premium payment status.

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

22 § 1814. Insurer Conduct

23 A.(1) An insurer shall perform a comparison of its insureds' in-force policies,
24 contracts, and retained asset accounts against a death master file, on at least a
25 semi-annual basis, by using the full death master file once and thereafter using the
26 death master file update files for future comparisons to identify potential matches of
27 its insureds.

1 (2) For those potential matches identified as a result of a death master file
2 match, the insurer shall, within ninety days of a death master file match, do both of
3 the following:

4 (a) Complete a good faith effort, which shall be documented by the insurer,
5 to confirm the death of the insured or retained asset account holder against other
6 available records and information.

7 (b) Determine whether benefits are due in accordance with the applicable
8 policy or contract.

9 (3) If benefits are due in accordance with the applicable policy or contract,
10 the insurer shall do both of the following:

11 (a) Use good faith efforts, which shall be documented by the insurer, to locate
12 the beneficiary or beneficiaries.

13 (b) Provide the appropriate claims forms or instructions to the beneficiary or
14 beneficiaries to make a claim, including the need to provide an official death
15 certificate if applicable under the policy or contract.

16 (4) With respect to group life insurance, insurers are required to confirm the
17 possible death of an insured when the insurer maintains all of the following
18 information of those covered under a policy or certificate:

19 (a) Social security number or name and date of birth.

20 (b) Beneficiary designation information.

21 (c) Coverage eligibility.

22 (d) Benefit amount.

23 (e) Premium payment status.

24 (5) To the extent permitted by law, the insurer may disclose minimum
25 necessary personal information about the insured or beneficiary to a person who the
26 insurer reasonably believes may be able to assist the insurer to locate the beneficiary
27 or a person otherwise entitled to payment of the claims proceeds.

28 (6) An insurer that has not engaged in asymmetric conduct prior to January
29 1, 2018, shall not be required to comply with the requirements of this Section with

1 respect to policies, annuities, or retained asset accounts issued prior to January 1,
2 2018.

3 (7) The commissioner may exempt an insurer from the provisions of this
4 Section if the insurer demonstrates to the commissioner's satisfaction that
5 compliance would result in undue hardship to the insurer.

6 B. An insurer or its service provider shall not charge any beneficiary or other
7 authorized representative for any fees or costs associated with a death master file
8 search or verification of a death master file match conducted pursuant to this Section.

9 C.(1) The benefits from a policy, contract, or a retained asset account, plus
10 any applicable accrued contractual interest shall be payable to the designated
11 beneficiaries or owners.

12 (2) In the event said beneficiaries or owners cannot be found, the benefits,
13 plus any applicable accrued contractual interest, shall escheat to the state as
14 unclaimed property pursuant to the Uniform Unclaimed Property Act. Interest
15 payable pursuant to R.S. 22:1811 shall not be payable as unclaimed property
16 pursuant to R.S. 9:153 and 154.

17 D. An insurer shall notify the state treasurer upon the expiration of the
18 statutory time period for escheat of both of the following:

19 (1) A policy or contract beneficiary or retained asset account holder has not
20 submitted a claim with the insurer.

21 (2) The insurer has complied with Subsection A of this Section and has been
22 unable, after good faith efforts documented by the insurer, to contact the beneficiary
23 or beneficiaries or retained asset account holder.

24 E. Upon such notice, an insurer shall immediately submit the unclaimed
25 policy or contract benefits or unclaimed retained asset accounts, plus any applicable
26 accrued interest, to the state treasurer.

27 F. Failure to meet any requirement of this Section with such frequency as to
28 constitute a general business practice is a violation of R.S. 22:1964(14). Nothing

- 1 herein shall be construed to create or imply a private cause of action for a violation
 2 of this Section.
 3 Section 2. This Act shall become effective on January 1, 2018.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 464 Original

2017 Regular Session

Robby Carter

Abstract: Enacts the "Unclaimed Life Insurance Benefits Law", requiring life insurers to periodically perform a comparison of their in-force life insurance policies to the death master file from the U.S. Social Security Administration to determine if benefits may be due under a policy; further provides that the proceeds of an unclaimed policy shall escheat to the state.

Proposed law enacts the Unclaimed Life Insurance Benefits Law.

Present law requires that all death claims arising under policies of insurance issued or delivered within this state shall be settled by the insurer within 60 days after the date of receipt of due proof of death, and further provides that if the insurer fails to do so without just cause, the amount due shall bear interest at the rate of 8% per annum from date of receipt of due proof of death by the insurer until paid.

Proposed law retains present law.

Proposed law provides that 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.

Proposed law requires a life insurer, within 90 days of learning of a possible match, to determine if benefits may be due and pay the benefits and any accrued contractual interest to the designated beneficiaries or owners.

Proposed law allows the insurer, to the extent permitted by law, to disclose minimum necessary personal information about the insured or beneficiary to a person whom the insurer reasonably believes may be able to assist the insurer to locate the beneficiary or a person otherwise entitled to payment of the claims proceeds.

Proposed law does not apply to an insurer that has not engaged in asymmetric conduct prior to Jan. 1, 2018, with respect to policies, annuities, or retained asset accounts issued prior to Jan. 1, 2018.

Proposed law allows the commissioner to exempt an insurer if the insurer demonstrates to the commissioner's satisfaction that compliance would result in undue hardship to the insurer.

Proposed law prohibits an insurer or its service provider from charging 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 proposed law.

Proposed law provides that the benefits from a policy, contract, or a retained asset account, plus any applicable accrued contractual interest, shall escheat to the state as unclaimed

property pursuant to the Uniform Unclaimed Property Act, in the event the beneficiary or account owner cannot be located.

Proposed law provides that the failure to meet any requirement of proposed law with such frequency as to constitute a general business practice is a violation of the present law prohibition against unfair claims settlement practices, and further provides that proposed law shall be construed to create or imply a private cause of action for a violation of proposed law.

Effective Jan. 1, 2018.

(Adds R.S. 22:1812-1814)