STATE OF NEW YORK

6943

IN SENATE

April 13, 2012

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to unclaimed life insurance benefits

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The insurance law is amended by adding a new section 3213-a to read as follows:

S 3213-A. UNCLAIMED BENEFITS; RETAINED ASSET ACCOUNTS. (A) IN THIS SECTION:

(1) "DEATH MASTER FILE" MEANS THE UNITED STATES SOCIAL SECURITY ADMINISTRATION DEATH MASTER FILE OR ANY OTHER DATABASE OR SERVICE THAT IS AT LEAST AS COMPREHENSIVE AS THE UNITED STATES SOCIAL SECURITY ADMINISTRATION DEATH MASTER FILE FOR DETERMINING THAT A PERSON HAS REPORTEDLY DIED.

(2) "DEATH MASTER FILE MATCH" MEANS A SEARCH OF THE DEATH MASTER FILE THAT RESULTS IN AN EXACT MATCH OF THE SOCIAL SECURITY NUMBER OR THE NAME AND DATE OF BIRTH OF AN INSURED OR RETAINED ASSET ACCOUNT HOLDER.

(3) "RETAINED ASSET ACCOUNT" MEANS ANY MECHANISM WHEREBY THE SETTLEMENT OF PROCEEDS PAYABLE UNDER A LIFE INSURANCE POLICY IS ACCOMPLISHED BY THE LIFE INSURER OR AN ENTITY ACTING ON BEHALF OF THE LIFE INSURER PLACING THE PROCEEDS INTO AN ACCOUNT WITH CHECK OR DRAFT WRITING PRIVILEGES WHERE THOSE PROCEEDS ARE RETAINED BY THE LIFE INSURER PURSUANT TO A SUPPLEMENTARY CONTRACT NOT INVOLVING ANNUITY BENEFITS.

(B)(1) ON AT LEAST A SEMI-ANNUAL BASIS, AN INSURER SHALL PERFORM A COMPARISON OF ITS IN-FORCE LIFE INSURANCE POLICIES AND RETAINED ASSET ACCOUNTS AGAINST THE DEATH MASTER FILE, OR A FILE CONTAINING ALL THE UPDATES THERETO SINCE THE DATE OF THE LAST COMPARISON RUN BY THE INSURER, TO IDENTIFY POTENTIAL MATCHES OF ITS INSUREDS OR ACCOUNT HOLDERS, PROVIDED THAT THE INSURER SHALL PERFORM THE COMPARISON AGAINST THE FULL DEATH MASTER FILE NO LESS THAN ANNUALLY.

(2) WITHIN NINETY DAYS AFTER THE IDENTIFICATION OF A POTENTIAL DEATH MASTER FILE MATCH, THE INSURER SHALL COMPLETE A GOOD FAITH EFFORT TO

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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CONFIRM THE DEATH OF THE INSURED OR RETAINED ASSET ACCOUNT HOLDER AGAINST OTHER AVAILABLE RECORDS AND INFORMATION.

(3) ONCE AN INSURER HAS CONCLUSIVE EVIDENCE OF THE DEATH OF AN INSURED OR RETAINED ASSET ACCOUNT HOLDER AND HAS DETERMINED WHETHER BENEFITS ARE DUE, IN ACCORDANCE WITH THE APPLICABLE POLICY, AND WHERE THE BENEFICIARY OR BENEFICIARIES UNDER THE POLICY OR ACCOUNT HAVE NOT ALREADY BEEN LOCATED, THE INSURER SHALL USE GOOD FAITH EFFORTS TO LOCATE SUCH BENEFICIARY OR BENEFICIARIES.

(4) ONCE THE BENEFICIARY OR BENEFICIARIES UNDER THE POLICY OR ACCOUNT HAVE BEEN LOCATED, THE INSURER SHALL PROVIDE TO THEM THE INFORMATION NECESSARY TO MAKE A CLAIM PURSUANT TO THE TERMS OF THE LIFE INSURANCE POLICY OR ACCOUNT.

(5) NOTHING HEREIN SHALL PREVENT AN INSURER FROM REQUIRING SATISFACTORY PROOF OF LOSS, SUCH AS A DEATH CERTIFICATE, AS A CONDITION FOR CONCLUSIVELY DETERMINING THE DEATH OF THE POLICYHOLDER OR ACCOUNT HOLDER.

(C) SUBSECTION (B) OF THIS SECTION SHALL NOT APPLY TO:

(1) GROUP LIFE INSURANCE POLICIES WHERE THE INSURER DOES NOT MAINTAIN RECORDS ON ITS ADMINISTRATIVE SYSTEMS CONTAINING THE INFORMATION NECESSARY TO COMPLY WITH THE REQUIREMENTS OF SUCH SUBSECTION;

(2) GROUP LIFE INSURANCE POLICIES WHERE PREMIUMS ARE PAID THROUGH PAYROLL DEDUCTION AND SUCH A PREMIUM PAYMENT HAS BEEN MADE IN THE PRIOR NINETY DAYS OR THE INSURED IS COVERED UNDER A GROUP LIFE INSURANCE POLICY WHERE PREMIUMS ARE PAID BY THE EMPLOYER AND THE INSURED REMAINS AN ACTIVE EMPLOYEE; OR

(3) ANY POLICY OR CERTIFICATE OF LIFE INSURANCE THAT PROVIDES A DEATH BENEFIT UNDER AN EMPLOYEE BENEFIT, GOVERNMENT OR CHURCH PLAN SUBJECT TO OR AS DEFINED UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (29 USC 1002), AS PERIODICALLY AMENDED, OR UNDER ANY FEDERAL EMPLOYEE BENEFIT PROGRAM.

(D) 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 IN LOCATING THE BENEFICIARY OR A PERSON OTHERWISE ENTITLED TO THE DEATH BENEFIT PAYABLE UNDER THE CONTRACT.

(E) IF THE INSURER IS UNABLE TO LOCATE THE BENEFICIARY OR BENEFICIARIES PURSUANT TO SUBSECTION (B) OF THIS SECTION, BUT IS OTHERWISE ABLE TO CONCLUSIVELY DETERMINE THE DEATH OF AN INSURED OR ACCOUNT HOLDER AND FURTHER CONCLUSIVELY DETERMINE THAT A BENEFIT IS DUE PURSUANT TO SUCH SUBSECTION AND IN ACCORDANCE WITH THE APPLICABLE POLICY, SUCH CONCLUSIVE DETERMINATION OF LIABILITY FOR A BENEFIT SHALL BE CONSIDERED NOTIFICATION OF A CLAIM AND THE BENEFIT OR ACCOUNT VALUE SHALL ESCHEAT ACCORDING TO THE PROVISIONS OF APPLICABLE STATE ABANDONED PROPERTY LAW.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.