

9845--A

I N A S S E M B L Y

April 18, 2012

Introduced by M. of A. MORELLE -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

3 S 3213-A. UNCLAIMED BENEFITS. (A) DEFINITIONS. FOR THE PURPOSES OF
4 THIS SECTION:

5 (1) "ACCOUNT" MEANS ANY MECHANISM, WHETHER DENOTED AS A RETAINED ASSET
6 ACCOUNT OR OTHERWISE, WHEREBY THE SETTLEMENT OF PROCEEDS PAYABLE TO A
7 BENEFICIARY UNDER A POLICY IS ACCOMPLISHED BY THE INSURER OR AN ENTITY
8 ACTING ON BEHALF OF THE INSURER PLACING THE PROCEEDS INTO AN ACCOUNT
9 WHERE THOSE PROCEEDS ARE RETAINED BY THE INSURER AND THE BENEFICIARY HAS
10 CHECK OR DRAFT WRITING PRIVILEGES; OR ANY OTHER SETTLEMENT OPTION RELAT-
11 ING TO THE MANNER OF DISTRIBUTION OF THE PROCEEDS PAYABLE UNDER A POLI-
12 CY.

13 (2) "DEATH INDEX" MEANS THE DEATH MASTER FILE MAINTAINED BY THE UNITED
14 STATES SOCIAL SECURITY ADMINISTRATION OR ANY OTHER DATABASE OR SERVICE
15 THAT IS AT LEAST AS COMPREHENSIVE AS THE DEATH MASTER FILE MAINTAINED BY
16 THE UNITED STATES SOCIAL SECURITY ADMINISTRATION AND THAT IS ACCEPTABLE
17 TO THE SUPERINTENDENT.

18 (3) "INSURED" INCLUDES AN INDIVIDUAL COVERED BY A POLICY OR AN ANNUI-
19 TANT WHEN THE ANNUITY CONTRACT PROVIDES FOR BENEFITS TO BE PAID OR OTHER
20 MONIES TO BE DISTRIBUTED UPON THE DEATH OF THE ANNUITANT.

21 (4) "INSURER" MEANS A LIFE INSURANCE COMPANY OR FRATERNAL BENEFIT
22 SOCIETY.

23 (5) "LOST POLICY FINDER" MEANS A SERVICE MADE AVAILABLE BY THE DEPART-
24 MENT ON ITS WEBSITE OR OTHERWISE TO ASSIST CONSUMERS IN LOCATING
25 UNCLAIMED LIFE INSURANCE BENEFITS.

26 (6) "POLICY" MEANS A LIFE INSURANCE POLICY, ANNUITY CONTRACT, OR A
27 CERTIFICATE UNDER A LIFE INSURANCE POLICY OR ANNUITY CONTRACT, OR A

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

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1 CERTIFICATE ISSUED BY A FRATERNAL BENEFIT SOCIETY, UNDER WHICH BENEFITS
2 ARE TO BE PAID UPON THE DEATH OF THE INSURED.

3 (B) APPLICABILITY. THIS SECTION SHALL APPLY TO:

4 (1) EVERY POLICY, LAPSED POLICY, CONTRACT AND CERTIFICATE ISSUED BY A
5 DOMESTIC INSURER AND ANY ACCOUNT ESTABLISHED UNDER OR AS A RESULT OF
6 SUCH POLICY; AND

7 (2) EVERY POLICY, LAPSED POLICY, CONTRACT AND CERTIFICATE DELIVERED OR
8 ISSUED FOR DELIVERY IN NEW YORK BY AN AUTHORIZED FOREIGN INSURER AND ANY
9 ACCOUNT ESTABLISHED UNDER OR AS A RESULT OF SUCH POLICY.

10 (3) NOTWITHSTANDING PARAGRAPHS ONE AND TWO OF THIS SUBSECTION, WITH
11 RESPECT TO A POLICY DELIVERED OR ISSUED FOR DELIVERY OUTSIDE THIS STATE,
12 AN INSURER MAY, IN LIEU OF THE REQUIREMENTS OF THIS SECTION, IMPLEMENT
13 PROCEDURES THAT MEET THE MINIMUM REQUIREMENTS OF THE STATE IN WHICH THE
14 POLICY WAS DELIVERED OR ISSUED, PROVIDED THAT THE SUPERINTENDENT
15 CONCLUDES THAT SUCH OTHER REQUIREMENTS ARE NO LESS FAVORABLE TO THE
16 POLICYOWNER AND BENEFICIARY THAN THOSE REQUIRED BY THIS SECTION.

17 (4) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS ONE AND TWO OF THIS
18 SUBSECTION, THIS SECTION SHALL NOT APPLY TO LAPSED POLICIES THAT WERE
19 SEARCHED WITHIN THE THREE HUNDRED SIXTY-FIVE DAYS PRECEDING THE EFFEC-
20 TIVE DATE OF THIS SECTION OR THAT WERE SEARCHED MORE THAN THREE HUNDRED
21 SIXTY-FIVE DAYS PRIOR TO THE MOST RECENT SEARCH CONDUCTED BY THE INSUR-
22 ER.

23 (C) IDENTIFYING INFORMATION. PRIOR TO A POLICY'S ISSUANCE OR AN
24 ACCOUNT'S ESTABLISHMENT, AND UPON ANY CHANGE OF INSURED, OWNER, OR BENE-
25 FICIARY, EVERY INSURER SHALL REQUEST INFORMATION SUFFICIENT TO ENSURE
26 THAT ALL BENEFITS OR OTHER MONIES ARE DISTRIBUTED TO THE APPROPRIATE
27 PERSONS UPON THE DEATH OF THE INSURED OR ACCOUNT HOLDER, INCLUDING, AT A
28 MINIMUM, THE NAME, ADDRESS, SOCIAL SECURITY NUMBER, AND TELEPHONE NUMBER
29 OF EVERY OWNER, INSURED AND BENEFICIARY OF SUCH POLICY OR ACCOUNT, AS
30 APPLICABLE.

31 (D) STANDARDS FOR INVESTIGATING CLAIMS. (1) EVERY INSURER SHALL USE
32 THE LATEST AVAILABLE UPDATED VERSION OF THE DEATH INDEX TO CROSS-CHECK
33 EVERY POLICY AND ACCOUNT SUBJECT TO THIS SECTION, EXCEPT AS SPECIFIED IN
34 SUBSECTION (G) OF THIS SECTION. THE CROSS-CHECKS SHALL BE PERFORMED NO
35 LESS FREQUENTLY THAN QUARTERLY. THE SUPERINTENDENT MAY PROMULGATE RULES
36 AND REGULATIONS THAT ALLOW AN INSURER TO APPLY FOR AN EXEMPTION FROM THE
37 REQUIREMENT THAT THE INSURER PERFORM THE CROSS-CHECKS NO LESS FREQUENTLY
38 THAN QUARTERLY, PROVIDED, HOWEVER, THE INSURER MUST NOT BE ALLOWED TO
39 PERFORM SUCH CROSS-CHECKS LESS THAN SEMI-ANNUALLY.

40 (2) THE CROSS-CHECKS SHALL BE PERFORMED USING:

41 (I) THE SOCIAL SECURITY NUMBER OF THE INSURED OR ACCOUNT HOLDER; OR

42 (II) WHERE THE SOCIAL SECURITY NUMBER IS NOT KNOWN TO THE INSURER, THE
43 NAME AND DATE OF BIRTH OF THE INSURED OR ACCOUNT HOLDER.

44 (3) IF AN INSURER ONLY HAS A PARTIAL NAME, SOCIAL SECURITY NUMBER,
45 DATE OF BIRTH, OR A COMBINATION THEREOF, OF THE INSURED OR ACCOUNT HOLD-
46 ER UNDER A POLICY OR ACCOUNT, THE INSURER SHALL USE THE AVAILABLE INFOR-
47 MATION TO PERFORM THE CROSS-CHECK.

48 (4) EVERY INSURER SHALL IMPLEMENT REASONABLE PROCEDURES TO ACCOUNT FOR
49 COMMON VARIATIONS IN DATA THAT WOULD OTHERWISE PRECLUDE AN EXACT MATCH
50 WITH A DEATH INDEX.

51 (E) MULTIPLE POLICY SEARCH PROCEDURES. (1) UPON RECEIVING NOTIFICATION
52 OF THE DEATH OF AN INSURED OR ACCOUNT HOLDER OR IN THE EVENT OF A MATCH
53 MADE BY A DEATH INDEX CROSS-CHECK PURSUANT TO SUBSECTION (D) OF THIS
54 SECTION, AN INSURER SHALL SEARCH EVERY POLICY OR ACCOUNT SUBJECT TO THIS
55 SECTION TO DETERMINE WHETHER THE INSURER HAS ANY OTHER POLICIES OR
56 ACCOUNTS FOR THE INSURED OR ACCOUNT HOLDER.

(2) EVERY INSURER THAT RECEIVES A NOTIFICATION OF THE DEATH OF THE INSURED OR ACCOUNT HOLDER, OR IDENTIFIES A DEATH INDEX MATCH, SHALL NOTIFY EACH INSURER IN ITS HOLDING COMPANY SYSTEM OF THE NOTIFICATION OR VERIFIED DEATH INDEX MATCH, WHO SHALL THEN PERFORM THE SEARCH REQUIRED BY PARAGRAPH ONE OF THIS SUBSECTION.

(F) STANDARDS FOR LOCATING CLAIMANTS. (1) EVERY INSURER SHALL ESTABLISH PROCEDURES TO REASONABLY CONFIRM THE DEATH OF AN INSURED OR ACCOUNT HOLDER AND TO LOCATE BENEFICIARIES WITHIN NINETY DAYS AFTER THE IDENTIFICATION OF A POTENTIAL MATCH MADE BY A DEATH INDEX CROSS-CHECK OR BY A SEARCH CONDUCTED BY THE INSURER PURSUANT TO SUBSECTION (E) OF THIS SECTION.

(2) ONCE THE BENEFICIARY OR BENEFICIARIES UNDER THE POLICY OR ACCOUNT HAVE BEEN LOCATED, THE INSURER SHALL PROVIDE TO THE BENEFICIARY OR BENEFICIARIES THE INFORMATION NECESSARY TO MAKE A CLAIM PURSUANT TO THE TERMS OF THE POLICY OR ACCOUNT. THE INSURER SHALL PROCESS ALL CLAIMS AND MAKE PROMPT PAYMENTS AND DISTRIBUTIONS IN ACCORDANCE WITH ALL APPLICABLE LAWS, RULES, AND REGULATIONS.

(3) 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 INSURED.

(G) 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 THIS SECTION;

(2) 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.

(H) LOST POLICY FINDER. (1) THE SUPERINTENDENT SHALL DEVELOP AND IMPLEMENT A LOST POLICY FINDER TO ASSIST REQUESTORS IN LOCATING UNCLAIMED LIFE INSURANCE BENEFITS. THE LOST POLICY FINDER SHALL BE AVAILABLE ONLINE AND VIA OTHER MEANS, INCLUDING BUT NOT LIMITED TO THE DEPARTMENT'S TOLL FREE TELEPHONE NUMBER. THE SUPERINTENDENT SHALL ASSIST A REQUESTOR IN USING THE LOST POLICY FINDER, INCLUDING INFORMING THE REQUESTOR OF WHAT INFORMATION AN INSURER MAY NEED TO FACILITATE RESPONDING TO THE REQUEST.

(2) AS SOON AS PRACTICABLE BUT NO LATER THAN THIRTY DAYS AFTER RECEIVING A REQUEST FROM A REQUESTOR VIA THE LOST POLICY FINDER, THE SUPERINTENDENT SHALL:

(I) FORWARD THE REQUEST TO ALL INSURERS DEEMED NECESSARY BY THE SUPERINTENDENT IN ORDER TO SUCCESSFULLY RESPOND TO THE CONSUMER'S REQUEST; AND

(II) INFORM THE REQUESTOR IN WRITING THAT THE REQUEST HAS BEEN RECEIVED AND FORWARDED TO ALL INSURERS DEEMED NECESSARY BY THE SUPERINTENDENT IN ORDER TO SUCCESSFULLY RESPOND TO THE REQUEST.

(3) UPON RECEIVING A REQUEST FORWARDED BY THE SUPERINTENDENT THROUGH A LOST POLICY FINDER APPLICATION, EVERY INSURER SHALL SEARCH FOR POLICIES AND ANY ACCOUNTS SUBJECT TO THIS SECTION THAT INSURE THE LIFE OF, OR ARE OWNED BY, AN INDIVIDUAL NAMED AS THE INSURED IN THE REQUEST FORWARDED BY THE SUPERINTENDENT.

(4) WITHIN THIRTY DAYS OF RECEIVING THE REQUEST REFERENCED IN PARAGRAPH TWO OF THIS SUBSECTION, THE INSURER SHALL:

(I) REPORT TO THE SUPERINTENDENT THROUGH THE LOST POLICY FINDER THE FINDINGS OF THE SEARCH CONDUCTED PURSUANT TO PARAGRAPH THREE OF THIS SUBSECTION;

(II) FOR EACH IDENTIFIED POLICY AND ACCOUNT INSURING THE LIFE OF, OR OWNED BY, THE NAMED INSURED, PROVIDE TO A REQUESTOR WHO IS ALSO THE BENEFICIARY OF RECORD ON THE IDENTIFIED POLICY OR ACCOUNT THE INFORMATION NECESSARY TO MAKE A CLAIM PURSUANT TO THE TERMS OF THE POLICY OR ACCOUNT;

(III) FOR EACH IDENTIFIED POLICY AND ACCOUNT INSURING THE LIFE OF, OR OWNED BY, THE NAMED INSURED, PROVIDE TO A REQUESTOR WHO IS NOT THE BENEFICIARY OF RECORD ON THE IDENTIFIED POLICY OR ACCOUNT THE REQUESTED INFORMATION TO THE EXTENT PERMISSIBLE TO BE DISCLOSED IN ACCORDANCE WITH ANY APPLICABLE LAW, RULE, AND REGULATION AND TO TAKE SUCH OTHER STEPS NECESSARY TO FACILITATE THE PAYMENT OF ANY BENEFIT THAT MAY BE DUE UNDER THE IDENTIFIED POLICY OR ACCOUNT; AND

(IV) FOR EACH REQUEST WHERE NO POLICY OR ACCOUNT WAS LOCATED, INFORM THE REQUESTOR OF THE RESULTS OF THE SEARCH AND ANY ADDITIONAL STEPS THE REQUESTOR MAY TAKE TO LOCATE UNCLAIMED LIFE INSURANCE BENEFITS.

(5) WHEN A BENEFICIARY IDENTIFIED IN PARAGRAPH FOUR OF THIS SUBSECTION SUBMITS A CLAIM OR CLAIMS TO AN INSURER, THE INSURER SHALL PROCESS SUCH CLAIMS AND MAKE PROMPT PAYMENTS AND DISTRIBUTIONS IN ACCORDANCE WITH ALL APPLICABLE LAWS, RULES, AND REGULATIONS.

(6) WITHIN THIRTY DAYS OF THE FINAL DISPOSITION OF THE REQUEST, THE INSURER SHALL REPORT TO THE SUPERINTENDENT THROUGH THE LOST POLICY FINDER ANY BENEFITS PAID AND ANY OTHER INFORMATION REQUESTED BY THE SUPERINTENDENT.

(7) EVERY INSURER SHALL ESTABLISH PROCEDURES TO ELECTRONICALLY RECEIVE THE LOST POLICY FINDER APPLICATION REQUEST FROM, AND MAKE REPORTS TO, THE SUPERINTENDENT AS PROVIDED FOR IN THIS SECTION. WHEN TRANSMITTED ELECTRONICALLY, THE DATE THAT THE SUPERINTENDENT FORWARDS THE REQUEST SHALL BE DEEMED TO BE THE DATE OF RECEIPT BY THE INSURER UNLESS THE DAY IS A SATURDAY, SUNDAY OR A PUBLIC HOLIDAY, AS DEFINED IN SECTION TWENTY-FIVE OF THE GENERAL CONSTRUCTION LAW AND, IN SUCH CASE, THE DATE OF RECEIPT SHALL BE AS PROVIDED IN SECTION TWENTY-FIVE-A OF THE GENERAL CONSTRUCTION LAW. THE SUPERINTENDENT MAY PROMULGATE RULES AND REGULATIONS THAT ALLOW AN INSURER TO APPLY FOR AN EXEMPTION FROM THE REQUIREMENT THAT IT ELECTRONICALLY RECEIVE THE LOST POLICY FINDER APPLICATION REQUEST.

(I) ESCHEATING OF BENEFITS. IF THE INSURER IS UNABLE TO LOCATE THE BENEFICIARY OR BENEFICIARIES PURSUANT TO THIS SECTION, BUT IS OTHERWISE ABLE TO REASONABLY DETERMINE THE DEATH OF AN INSURED OR ACCOUNT HOLDER AND FURTHER REASONABLY DETERMINES THAT A BENEFIT IS DUE IN ACCORDANCE WITH THE APPLICABLE POLICY, SUCH DETERMINATION OF LIABILITY FOR A BENEFIT SHALL BE CONSIDERED NOTIFICATION OF A CLAIM AND THE BENEFIT OR ACCOUNT VALUE SHALL ESCHATE ACCORDING TO ARTICLE SEVEN OF THE ABANDONED PROPERTY LAW. THE SUPERINTENDENT, IN CONJUNCTION WITH THE COMPTROLLER OF THE STATE OF NEW YORK, SHALL PROMULGATE ANY RULES AND REGULATIONS NECESSARY TO IMPLEMENT THIS SUBSECTION.

(J) REPORTS. EVERY INSURER SUBJECT TO THIS SECTION SHALL INCLUDE IN THE REPORT REQUIRED UNDER SECTION SEVEN HUNDRED THREE OF THE ABANDONED PROPERTY LAW ANY INFORMATION ON UNCLAIMED BENEFITS DUE THE NUMBER OF POLICIES AND ACCOUNTS THAT THE INSURER HAS IDENTIFIED PURSUANT TO THIS SECTION FOR THE PRIOR CALENDAR YEAR UNDER WHICH ANY OUTSTANDING MONIES HAVE NOT BEEN PAID OR DISTRIBUTED BY DECEMBER THIRTY-FIRST OF SUCH YEAR. A COPY OF THE REPORT SHALL ALSO BE FILED WITH THE SUPERINTENDENT.

(K) THE SUPERINTENDENT IS AUTHORIZED TO PROMULGATE ANY RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

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