STATE OF NEW YORK

1831

2013-2014 Regular Sessions

IN ASSEMBLY

(PREFILED)

January 9, 2013

Introduced by M. of A. MORELLE -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to unclaimed life insurance benefits, relating to clarifying certain provisions

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

Section 1. Section 3213-a of the insurance law, as added by chapter 495 of the laws of 2012, is amended to read as follows:

S [3213-a] 3240. Unclaimed benefits. (a) Definitions. For the purposes of this section:

(1) "Account" means: (A) any mechanism, whether denoted as a retained asset account or otherwise, whereby the settlement of proceeds payable to a beneficiary under a policy is accomplished by the insurer or an entity acting on behalf of the insurer [where the proceeds are retained by the insurer pursuant to a supplementary contract] PLACING THE PROCEEDS INTO AN ACCOUNT WHERE THE INSURER RETAINS THOSE PROCEEDS AND THE BENEFICIARY HAS CHECK OR DRAFT WRITING PRIVILEGES; OR (B) ANY OTHER SETTLEMENT OPTION RELATING TO THE MANNER OF DISTRIBUTION OF THE PROCEEDS PAYABLE UNDER A POLICY.

(2) "Death index" means the death master file maintained by the United States social security administration or any other database or service that is at least as comprehensive as the death master file maintained by the United States social security administration and that is acceptable to the superintendent.

(3) "Insured" [includes] MEANS an individual covered by a policy or an annuitant when the annuity contract provides for benefits to be paid or other monies to be distributed upon the death of the annuitant.

(4) "Insurer" means a life insurance company or fraternal benefit society.

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

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(5) "Lost policy finder" means a service made available by the department on its website or otherwise developed by the superintendent either on his or her own or in conjunction with other state regulators, to assist consumers [in] WITH locating unclaimed life insurance benefits.

(6) "Policy" means a life insurance policy[, including policies that have lapsed or been terminated,]; AN annuity contract[, or]; a certificate under a life insurance policy or annuity contract[,]; or a certificate issued by a fraternal benefit society[,]; under which benefits are to be paid upon the death of the insured, INCLUDING A POLICY THAT HAS LAPSED OR BEEN TERMINATED.

(b) Applicability. (1) This section shall apply to A POLICY:

[(1) Every policy] (A) issued by a domestic insurer and any account established under or as a result of such policy; [and] OR

[(2) Every policy] (B) delivered or issued for delivery in [New York] THIS STATE by an authorized foreign insurer and any account established under or as a result of such policy.

[(3)] (2) Notwithstanding [paragraphs] PARAGRAPH one [and two] of this subsection[,]:

(A) with respect to a policy delivered or issued for delivery outside this state, a domestic insurer may, in lieu of the requirements of this section, implement procedures that meet the minimum requirements of the state in which the INSURER DELIVERED OR ISSUED THE policy [was delivered or issued], provided that the superintendent [concludes] DETERMINES that such other requirements are no less favorable to the [policyowner] POLICY OWNER and beneficiary than those required by this section[.]; AND

[(4) Notwithstanding the provisions of paragraphs one and two of this subsection,] (B) this section shall not apply to A lapsed or terminated [policies] POLICY with no benefits payable that [were] WAS searched within the [three hundred sixty-five days] EIGHTEEN MONTHS preceding the effective date of this section or that [were] WAS searched more than eighteen months prior to the most recent search conducted by the insurer.

(c) Identifying information. (1) Except as set forth in paragraph two of this subsection, at no later than policy delivery or the establishment of an account and upon any change of insured, owner, ACCOUNT HOLDER, or beneficiary, [every] AN insurer shall request information sufficient to ensure that all benefits or other monies are distributed to the appropriate persons upon the death of the insured or account holder, including, at a minimum, the name, address, social security number, date of birth, and telephone number of every owner, ACCOUNT HOLDER, insured, and beneficiary of such policy or account, as applicable.

(2) Where an insurer issues a policy or provides for an account based on data received directly from an insured's employer, the insurer may obtain the beneficiary information described in paragraph one of this subsection BY COMMUNICATING WITH THE INSURED after receiving the data from the insured's employer.

(d) Standards for cross-checking policies. (1) [Every] AN insurer shall use the death index to cross-check every policy and account subject to this section no less frequently than quarterly, except as specified in subsection (g) of this section. An insurer may perform the cross-check using the updates made to the death index since the date of the last cross-check performed by the insurer, provided that the insurer performs the cross-check using the entire death index at least once a year. The superintendent may promulgate rules and regulations that allow an insurer to perform the cross-checks less frequently than quarterly[, provided, however, the insurer must not be allowed to perform such cross-checks] BUT NOT less FREQUENTLY than semi-annually.

(2) The cross-checks shall be performed using: (A) the INSURED OR ACCOUNT HOLDER'S social security number; OR (B) WHERE THE INSURER DOES NOT KNOW THE INSURED OR ACCOUNT HOLDER'S SOCIAL SECURITY NUMBER, the name[,] and date of birth of the insured or account holder.

(3) If an insurer only has a partial name, social security number, date of birth, or a combination thereof, of the insured or account holder under a policy or account, THEN the insurer shall use the available information to perform the cross-check.

(4) [Every] AN insurer shall implement reasonable procedures to account for common variations in data that would otherwise preclude an exact match with a death index.

(e) Multiple policy search procedures. (1) Upon receiving notification of the death of an insured or account holder or in the event of a match made by a death index cross-check pursuant to subsection (d) of this section, an insurer shall search every policy or account subject to this section to determine whether the insurer has any other policies or accounts for the insured or account holder.

(2) [Every] AN insurer that receives a notification of the death of [the] AN insured or account holder, or identifies a death index match, shall notify each United States affiliate, PARENT, OR SUBSIDIARY, and any entity [that] WITH WHICH the insurer contracts [with which] THAT may maintain OR CONTROL records relating to policies OR ACCOUNTS covered by this section, of the notification or verified death index match[, who shall then perform the search required by paragraph one of this subsection]. AN INSURER SHALL TAKE ALL STEPS NECESSARY TO HAVE EACH AFFILIATE, PARENT, SUBSIDIARY, OR OTHER ENTITY PERFORM THE SEARCH REQUIRED BY PARAGRAPH ONE OF THIS SUBSECTION.

(f) Standards for locating claimants. (1) [Every] AN insurer shall establish procedures to reasonably confirm the death of an insured or account holder and begin 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. If the insurer cannot locate beneficiaries within ninety days after the identification of a potential match, THEN the insurer shall continue to search for beneficiaries until the benefits escheat [to the] IN ACCORDANCE WITH APPLICABLE state LAW.

(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, for the purpose of verifying the death of the insured, PROVIDED THAT IF A BENEFICIARY CANNOT OBTAIN A DEATH CERTIFICATE, THEN AN INSURER SHALL ACCEPT AN ALTERNATE FORM OF SATISFACTORY PROOF OF LOSS.

(g) This section shall not apply to:

(1) A group [policies] POLICY ADMINISTERED BY THE GROUP POLICYHOLDER where the insurer does not maintain OR CONTROL THE records [on its administrative systems] containing the information necessary to comply with the requirements of this section; OR

(2) [any policy or certificate 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; (3)] any other circumstance as determined to be appropriate by the superintendent IN A REGULATION.

(h) Lost policy finder. (1) The superintendent shall develop and implement a lost policy finder to assist requestors [in] WITH 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] WITH using the lost policy finder, including informing the requestor of [what] THE 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)] (A) forward the request to all insurers deemed necessary by the superintendent in order to successfully respond to the [consumer's] request; and

[(ii)] (B) inform the requestor in writing that the SUPERINTENDENT RECEIVED THE request [has been received] and forwarded THE REQUEST 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] AN 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 decedent in the request forwarded by the superintendent.

(4) Within thirty days of receiving the request referenced in paragraph two of this subsection, OR WITHIN FORTY-FIVE DAYS OF RECEIVING THE REQUEST WHERE THE INSURER CONTRACTS WITH ANOTHER ENTITY TO MAINTAIN THE INSURER'S RECORDS, the insurer shall:

[(i)] (A) report to the superintendent through the lost policy finder the findings of the search conducted pursuant to paragraph three of this subsection;

[(ii)] (B) for each identified policy and account insuring the life of, or owned by, the [named insured] INDIVIDUAL NAMED AS THE DECEDENT IN THE REQUEST, provide to a requestor who is:

(I) 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; AND

[(iii) for each identified policy and account insuring the life of, or owned by, the named insured, provide to a requestor who is]

(II) 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] OR 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].

(5) The superintendent shall, within thirty days of receiving from all insurers the information required in subparagraph [(i)] (A) of paragraph four of this subsection, inform the requestor of the results of the search.

(6) When a beneficiary identified in paragraph four of this subsection submits a claim or claims to an insurer, the insurer shall process such CLAIM OR claims and make prompt payments and distributions in accordance with all applicable laws, rules, and regulations.

(7) Within thirty days of the final disposition of the request, [the] AN insurer shall report to the superintendent through the lost policy finder any benefits paid and any other information requested by the superintendent.

(8) [Every] AN 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]; PROVIDED, HOWEVER, THAT IF the [day] DATE is a Saturday, Sunday, or a public holiday, as defined in section [twenty-five] TWENTY-FOUR of the general construction law [and, in such case], THEN 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 AND REPORT ANY BENEFITS PAID OR OTHER INFORMATION THE SUPERINTENDENT REQUESTS PURSUANT TO SECTION THREE HUNDRED SIXTEEN OF THIS CHAPTER.

(i) Reports. [Every] AN 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 pursuant to this section AND 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, except potential matches still being investigated pursuant to paragraph one of subsection (f) of this section. A copy of the report ALSO shall [also] be filed with the superintendent.

(j) The superintendent is authorized to promulgate any rules and regulations necessary to implement the provisions of this section in accordance with the provisions of the state administrative procedure act.

S 2. This act shall take effect on the same date and in the same manner as chapter 495 of the laws of 2012, takes effect.