

Chapter 42

S.B. No. 561

1 AN ACT
2 relating to the identification and handling of unclaimed life
3 insurance and annuity contract proceeds.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 1109, Insurance Code, is amended by
6 adding Subchapter A-1 to read as follows:

7 SUBCHAPTER A-1. DEATH MASTER FILE SEARCH; IDENTIFICATION OF
8 UNCLAIMED PROCEEDS

9 Sec. 1109.010. DEFINITIONS. In this subchapter:

10 (1) "Annuity contract" means an annuity contract
11 issued in this state. The term does not include an annuity used to
12 fund an employment-based retirement plan or program for which the
13 insurer:

14 (A) does not perform the recordkeeping services;
15 or

16 (B) is not committed by the terms of the annuity
17 contract to pay death benefits to the beneficiaries of specific
18 plan participants.

19 (2) "Death Master File" means:

20 (A) the United States Social Security
21 Administration's Death Master File; or

22 (B) any other database or service that is at
23 least as comprehensive as the United States Social Security
24 Administration's Death Master File for determining whether a person

1 is dead.

2 (3) "Death Master File match" means a match of the
3 social security number or the name and date of birth of an insured
4 or retained asset account holder resulting from a search of the
5 Death Master File.

6 (4) "Life insurance policy" means a policy or
7 certificate of life insurance issued in this state that provides a
8 death benefit. The term does not include:

9 (A) a policy or certificate of life insurance
10 that provides a death benefit under an employee benefit plan that
11 is:

12 (i) subject to the Employee Retirement
13 Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.); or

14 (ii) under any federal employee benefit
15 program;

16 (B) a policy or certificate of life insurance
17 that is used to fund a pre-need funeral contract or prearrangement;

18 (C) a policy or certificate of credit life or
19 accidental death insurance; or

20 (D) a policy issued to a group master
21 policyholder for which the insurer does not provide recordkeeping
22 services.

23 (5) "Recordkeeping services" means services provided
24 by an insurer, under an agreement with a group policy or contract
25 holder, to obtain, maintain, and administer in the insurer's or the
26 insurer's agents' systems the following information about each
27 individual insured under the group policy or contract or a line of

1 coverage under that policy or contract:

2 (A) the social security number or name and date
3 of birth of the insured;

4 (B) beneficiary designation information;

5 (C) coverage eligibility;

6 (D) benefit amount; and

7 (E) premium payment status.

8 (6) "Retained asset account" means a mechanism by
9 which the proceeds payable under a life insurance policy or annuity
10 contract are settled by the insurer or an entity acting on behalf of
11 the insurer by depositing the proceeds into an account with check or
12 draft writing privileges, where those proceeds are retained by the
13 insurer or the insurer's agent, under a supplementary contract not
14 involving annuity contract benefits other than death benefits.

15 Sec. 1109.011. IDENTIFICATION OF DEATH MASTER FILE MATCHES.

16 (a) An insurer shall compare its in-force life insurance policies,
17 annuity contracts, and retained asset accounts against a Death
18 Master File at least semiannually to identify potential Death
19 Master File matches. The insurer shall perform the first
20 comparison of a policy, contract, or account against a full Death
21 Master File and thereafter against Death Master File update files
22 to identify potential Death Master File matches.

23 (b) An insurer shall first conduct the comparison required
24 by Subsection (a) electronically to the extent the insurer's
25 records are available in electronic format, and then use the most
26 easily accessible insurer records for any records that are not
27 available electronically.

1 (c) Each subsequent comparison made under this section
2 shall include all in-force life insurance policies, annuity
3 contracts, and retained asset accounts and any policies, contracts,
4 or accounts that have lapsed since the previous comparison.

5 (d) An insurer shall implement procedures for conducting
6 comparisons under this section to account for:

7 (1) common nicknames, initials used in lieu of a first
8 or middle name, use of a middle name, compound first and middle
9 names, and interchanged first and middle names;

10 (2) compound last names, maiden or married names, and
11 hyphens, blank spaces, or apostrophes in last names;

12 (3) transposition of the month and date portions of
13 the date of birth; and

14 (4) an incomplete social security number.

15 Sec. 1109.012. DUTIES REGARDING DEATH MASTER FILE MATCH.

16 (a) For each Death Master File match, the insurer shall, not later
17 than the 90th day after the date the insurer identifies the match:

18 (1) complete a documented good faith effort to confirm
19 the death of the insured or retained asset account holder against
20 other available records and information;

21 (2) review the insurer's records to determine whether
22 the deceased individual had purchased or was otherwise covered by
23 any of the insurer's other products; and

24 (3) determine whether proceeds may be due in
25 accordance with the applicable policy or contract or terms
26 governing the applicable account.

27 (b) For group life insurance or a group annuity contract, an

1 insurer is required to confirm the possible death of an insured or
2 retained asset account holder under this section only if the
3 insurer provides recordkeeping services for the group policy or
4 group annuity contract.

5 (c) If the insurer determines under Subsection (a)(3) that
6 proceeds may be due and a beneficiary or other authorized
7 representative has not communicated with the insurer on or before
8 the 90th day after the date the insurer identifies a Death Master
9 File match, the insurer shall:

10 (1) complete a documented good faith effort to locate
11 and contact each beneficiary or other authorized representative on
12 the relevant policy, contract, or account; and

13 (2) provide to the beneficiary or authorized
14 representative the appropriate claim forms, instructions, or
15 information to make a claim, including information about any need
16 to provide an official death certificate or show proof of death
17 under the applicable policy or contract or terms governing the
18 applicable account.

19 (d) If an insurer is unable to confirm the death of an
20 insured or retained asset account holder after the insurer
21 identifies a Death Master File match, the insurer may consider the
22 relevant policy, contract, or account to remain in force according
23 to its terms.

24 (e) To the extent permitted by law, the insurer may disclose
25 minimum necessary personal information about the insured, retained
26 asset account holder, or beneficiary to a person the insurer
27 reasonably believes may be able to assist the insurer in locating a

1 person entitled to payment of the claim proceeds.

2 (f) An insurer or the insurer's service provider may not
3 charge an insured, retained asset account holder, beneficiary, or
4 authorized representative any fees or costs associated with
5 conducting a Death Master File comparison under this subchapter or
6 verifying a Death Master File match under this subchapter.

7 Sec. 1109.013. PRESUMPTION OF UNCLAIMED PROCEEDS; REPORT
8 AND DELIVERY OF PROCEEDS. (a) The proceeds of a life insurance
9 policy, annuity contract, or retained asset account, and any
10 accrued contractual interest, are first payable to each designated
11 beneficiary or owner as provided by the applicable policy or
12 contract or terms governing the applicable account.

13 (b) If a Death Master File match is confirmed, the proceeds
14 of the relevant policy, contract, or account are considered
15 unclaimed proceeds for purposes of this chapter on the third
16 anniversary of the date on which, according to the insurer's
17 records, the insurer completed a good faith effort as required by
18 Section 1109.012(c) that failed to locate a beneficiary or
19 authorized representative if the proceeds remain unpaid and no
20 beneficiary or authorized representative has submitted a claim for
21 the proceeds to the insurer before that date.

22 (c) An insurer shall report unclaimed proceeds as required
23 by Section 1109.051.

24 (d) An insurer shall deliver unclaimed proceeds to the
25 comptroller as required by Section 1109.052.

26 (e) For purposes of this section, unclaimed proceeds do not
27 include any statutory interest under Section 1103.104.

1 Sec. 1109.014. RULEMAKING AUTHORITY. The commissioner may
2 adopt rules to implement this subchapter.

3 Sec. 1109.015. AUTHORITY TO ISSUE CERTAIN ORDERS. The
4 commissioner may issue an order:

5 (1) limiting the Death Master File comparisons
6 required by this subchapter to only those files the insurer
7 maintains in searchable electronic format or approving a plan and
8 timeline for an insurer to convert the insurer's files to
9 searchable electronic format;

10 (2) exempting an insurer from the Death Master File
11 comparisons required by this subchapter or permitting an insurer to
12 perform the comparisons less frequently than required by this
13 subchapter on a showing of hardship to the insurer; or

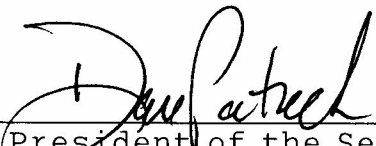
14 (3) permitting an insurer to phase in compliance with
15 this subchapter according to a plan and timeline approved by the
16 commissioner.

17 Sec. 1109.016. AUTHORITY TO REQUEST DEATH CERTIFICATE.
18 Nothing in this subchapter limits an insurer's right to request a
19 death certificate as part of a claim validation process.

20 SECTION 2. Subchapter A-1, Chapter 1109, Insurance Code, as
21 added by this Act, applies only to an insurance policy or annuity
22 contract delivered, issued for delivery, or renewed on or after
23 January 1, 2018, or a retained asset account established in
24 connection with the insurance policy or annuity contract. An
25 insurance policy or annuity contract delivered, issued for
26 delivery, or renewed before that date, or a retained asset account
27 established in connection with the insurance policy or annuity

1 contract, is governed by the law as it existed immediately before
2 the effective date of this Act, and that law is continued in effect
3 for that purpose.

4 SECTION 3. This Act takes effect September 1, 2017. _____



President of the Senate



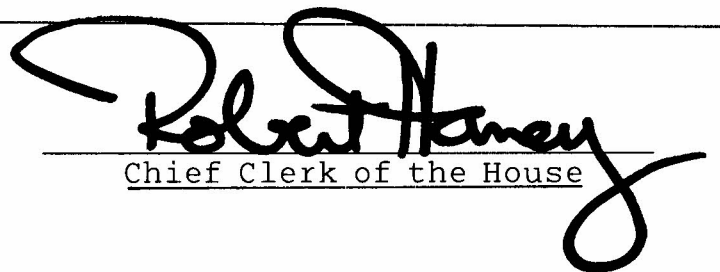
Speaker of the House

I hereby certify that S.B. No. 561 passed the Senate on April
19, 2017, by the following vote: Yeas 30, Nays 1. _____



Secretary of the Senate

I hereby certify that S.B. No. 561 passed the House on May 6,
2017, by the following vote: Yeas 142, Nays 2, one present not
voting. _____



Chief Clerk of the House

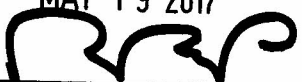
Approved:

5-18-2017
Date



Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
5:20 PM O'CLOCK

MAY 19 2017


Secretary of State

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 5, 2017

TO: Honorable Larry Phillips, Chair, House Committee on Insurance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB561 by Hancock (Relating to the identification and handling of unclaimed life insurance and annuity contract proceeds.), **As Engrossed**

The number of policies that would be affected under the bill's provisions is unknown; therefore, the bill would have an indeterminate fiscal impact to the state beginning in FY2021.

The bill would amend Chapter 1109 of the Insurance Code, regarding unclaimed life insurance and annuity contract proceeds.

The bill would add new Subchapter A-1, regarding death master file search and identification of unclaimed proceeds, to require insurers to compare, at least semiannually, its in-force life insurance policies, annuity contracts, and retained asset accounts against the U.S. Social Security Administration's Death Master File (DMF) to identify potential DMF matches. The bill would establish requirements for these comparisons. Not later than 90 days after identifying a DMF match, the insurer would be required to confirm the death, verify if the deceased had other products with the insurer, determine if benefits are due, and attempt to locate and contact beneficiaries. If the insurer is unable to confirm the death of the insured, the insurer may consider the relevant policies to remain in force. If the DMF match is confirmed, the policy, contract, or account proceeds would be considered unclaimed property three years after the date the insurer attempted and failed to locate a beneficiary or authorized representative.

The bill would allow the Texas Department of Insurance Commissioner to issue orders limiting DMF comparisons to insurer files available in electronic formats, exempting an insurer showing hardship, or allowing an insurer to phase in compliance. The bill would only apply to an insurance policy or annuity contract that is delivered, issued for delivery, or renewed on or after January 1, 2018.

Based on information provided by the Texas Department of Insurance, it is assumed that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would allow three years from the time a DMF match is confirmed and an attempt and failure to locate a beneficiary before proceeds would be considered unclaimed property; therefore, there would be no revenue implications prior to fiscal 2021.

According to the Comptroller's Unclaimed Property Division, there have been a number of audits of insurance companies that use the DMF to determine whether a policy holder has passed away,

which have resulted in an average of \$37 million in unclaimed property being remitted annually from fiscal 2013 to 2016. As the bill only would apply to policies delivered on or after January 1, 2018, it is possible that there could be a reduction in remittances as a result of companies not being required to compare earlier policies to the DMF. In addition, there would be an increase in remittances as insurers become subject to the bill's provisions. The number of policies that would be affected is unknown; therefore, the fiscal impact cannot be estimated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: UP, CL, AG, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 4, 2017

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB561 by Hancock (Relating to the identification and handling of unclaimed life insurance and annuity contract proceeds.), **Committee Report 1st House, Substituted**

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LBB Staff: UP, CL, AG, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 28, 2017

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB561 by Hancock (Relating to the identification and handling of unclaimed life insurance and annuity contract proceeds.), **As Introduced**

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