**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑27‑645 SO AS TO ENACT THE “SOUTH CAROLINA UNCLAIMED LIFE INSURANCE BENEFITS ACT”; TO PROVIDE NECESSARY DEFINITIONS; TO REQUIRE AN INSURER TO COMPARE ITS IN‑FORCE POLICIES, CONTRACTS AND RETAINED ASSET ACCOUNTS AGAINST A DEATH MASTER FILE ON A SEMIANNUAL BASIS AND TO ESTABLISH PROCEDURES IF THERE IS A DEATH MASTER FILE MATCH; TO PROHIBIT AN INSURER FROM CHARGING A BENEFICIARY FOR FEES OR COSTS ASSOCIATED WITH A DEATH MASTER FILE SEARCH; TO PROVIDE THE PRIORITY FOR THE DISTRIBUTION OF BENEFITS OR A RETAINED ASSET ACCOUNT; TO PROVIDE THAT AN INSURER IS STILL RESPONSIBLE FOR OBLIGATIONS UNDER SECTION 27‑18‑80 AND SUBJECT TO PENALTIES ENUMERATED IN SECTION 27‑18‑350; TO PROVIDE THAT THE PROVISIONS OF THIS ACT DO NOT LIMIT, REDUCE, OR ELIMINATE AN INSURER’S DUTIES AND OBLIGATIONS UNDER A RESOLUTION OR VOLUNTARY DISCLOSURE AGREEMENT; AND TO ESTABLISH THAT FAILURE TO MEET THE REQUIREMENTS OF THIS ACT CONSTITUTES AN UNFAIR TRADE PRACTICE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act must be cited as the ‘South Carolina Unclaimed Life Insurance Benefits Act’.

SECTION 2. Article 5, Chapter 27, Title 38 of the 1976 Code is amended by adding:

“Section 38‑27‑645. (A) As used in this section, the term:

(1) ‘Contract’ means an annuity contract and may not include an annuity used to fund an employment‑based retirement plan or program where the insurer:

(a) does not perform record keeping services; or

(b) is not committed by the terms of the annuity contract to pay death benefits to the beneficiary of a specific plan participant.

(2) ‘Death master file’ means the United States Social Security Administration’s Death Master File or other database or service that is at least as comprehensive as the United States Social Security Administration’s master file for determining that a person has reportedly died.

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

(4) ‘Knowledge of death’ means:

(a) receipt of an original or valid copy of a certified death certification; or

(b) a death master file match validated by the insurer in accordance with the provisions of this section.

(5) ‘Policy’ means a policy or certificate of life insurance issued in this State after the effective date of this act that provides a death benefit. This term shall not include:

(a) a policy or certificate of life insurance that provides a death benefit under an employee benefit plan subject to the Employee Retirement Income Security Act of 1974, as periodically amended, or under any federal employee benefit plan;

(b) a policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement;

(c) a policy or certificate of credit life insurance or accidental death insurance; or

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

(6) ‘Record keeping services’ means those circumstances under which the insurer has agreed with a group policy or contract customer to be responsible for obtaining, maintaining, and administering in its own or its agents’ systems at least the following information about each individual insured under an insured’s group insurance contract:

(a) social security number or name and date of birth;

(b) beneficiary designation information;

(c) coverage eligibility;

(d) benefit amount; and

(e) premium payment status.

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

(B)(1) An insurer shall, on no less than a semiannual basis, perform a comparison of its insureds’ in‑force policies, contracts, and retained asset accounts against a death master file by using the full death master file once and thereafter using the death master file updates files for future comparisons to identify potential matches of its insureds.

(2) For potential matches identified as a result of a death master file match, an insurer has ninety days to:

(a) complete a good faith effort, which must be documented by the insurer, to confirm the death of the insured or retained asset account holder against other available records and information; and

(b) determine whether benefits are due in accordance with the applicable policy or contract and;

(c) if benefits are due:

(i) use good faith efforts, which shall be documented by the insurer, to locate the beneficiary or beneficiaries; and

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

(3) With respect to group life insurance policies, insurers are required to confirm the possible death of an insured when the insurers maintain record keeping services.

(4) To the extent permitted by law, the insurer may 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 person otherwise entitled to payment of the claim’s proceeds.

(C) An insurer or its service provider may not charge a beneficiary or other authorized representative for fees or costs associated with a death master file search or verification of a death master file match conducted pursuant to this section.

(D) The benefits from a policy, contract, or retained asset account, and any applicable accrued contractual interest, must first be payable to the designated beneficiaries or owners cannot be found, the benefits and contractual interest are subject to the custody of the state as unclaimed property pursuant to Chapter 18, Title 27.

(E) Nothing in this chapter may be construed to limit the responsibility of the insurer with respect to requirements of Section 27‑18‑80 or absolve the insurer of penalties enumerated in Section 27‑18‑350 for failure to comply.

(F) Nothing in this act may be interpreted as limiting, reducing, or otherwise eliminating the duties and obligation of an insurer under any resolution agreement or voluntary disclosure agreement with the state’s unclaimed property administrator.

(G) Failure to meet the requirements of this section with such frequency as to constitute a general business practice is construed as an unfair trade practice and a violation of the provisions of Chapter 5, Title 39.

(H) Nothing contained in this section may be construed to create or imply a private cause of action for a violation of this section.”

SECTION 3. This act takes effect upon approval by the Governor.

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