

## Model Unclaimed Life Insurance Benefits Act

---

*Updated version adopted by the NCOIL Executive Committee on November 23, 2014. Model originally adopted by the Executive Committee on November 20, 2011.*

### **Section 1. Short Title**

This Act shall be known as the *Unclaimed Life Insurance Benefits Act*.

### **Section 2. Purpose**

This Act shall require recognition of the escheat or unclaimed property statutes of the adopting state and require the complete and proper disclosure, transparency, and accountability relating to any method of payment for life insurance death benefits regulated by the state's insurance department.

### **Section 3. Definitions**

- A. "Contract" means an annuity contract. The term "Contract" shall not include an annuity used to fund an employment-based retirement plan or program where (1) the insurer does not perform the Record Keeping Services or (2) the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.
- B. "Death Master File" means the United States Social Security Administration's Death Master File or any other database or service that is at least as comprehensive as the United States Social Security Administration's Death Master File for determining that a person has reportedly died.
- C. "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 of an insured, annuity owner, or retained asset account holder.
- D. "Knowledge of Death" shall mean (a) receipt of an original or valid copy of a certified death certificate or (b) a Death Master File Match validated by the Insurer in accordance with Section 4(A)(1)(a).
- E. "Policy" means any policy or certificate of life insurance that provides a death benefit. The term "Policy" shall not include (i) any policy or certificate of life insurance that provides a death benefit under an employee benefit plan (a) subject to The Employee Retirement Income Security Act of 1974 [29 USC 1002], as periodically amended, or (b) under any Federal employee benefit program, or (ii) any policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement, or (iii) any policy or certificate of credit life or accidental death insurance, or (iv) any policy issued to a group master policyholder for which the insurer does not provide Record Keeping services.
- F. "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 information about each individual insured under an Insured's group insurance contract (or a line of coverage thereunder), at least the following information: (1) Social Security number or name and date of birth, and (2) beneficiary designation information, (3) coverage eligibility, (4) benefit amount, and (5) premium payment status.
- G. "Retained Asset Account" means any 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.

*Drafting note: All other terms used in this Act shall be interpreted in a manner consistent with the definitions used in [Insert State Insurance Code].*

#### **Section 4. Insurer Conduct**

- A. An insurer shall perform a comparison of its insureds' in-force Policies, Contracts, and Retained Asset Accounts against a Death Master File, on at least a semi-annual basis, by using the full Death Master File once and thereafter using the Death Master File update files for future comparisons to identify potential matches of its insureds. For those potential matches identified as a result of a Death Master File Match, the insurer shall:
1. within ninety (90) days of a Death Master File Match:
    - a. complete a good faith effort, which shall be documented by the insurer, to confirm the death of the insured or retained asset account holder against other available records and information;
    - b. determine whether benefits are due in accordance with the applicable policy or contract; and if benefits are due in accordance with the applicable policy or contract:
      - 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, contract.
  2. With respect to group life insurance, insurers are required to confirm the possible death of an insured when the insurers maintain at least the following information of those covered under a policy or certificate: (1) Social Security number or name and date of birth, and (2) beneficiary designation information, (3) coverage eligibility, (4) benefit amount, and (5) premium payment status.
  3. Every insurer shall implement procedures to account for:
    - a. common nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names;
    - b. compound last names, maiden or married names, and hyphens, blank spaces or apostrophes in last names;
    - c. transposition of the "month" and "date" portions of the date of birth; and
    - d. incomplete social security number
  4. 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 locate the beneficiary or a person otherwise entitled to payment of the claims proceeds.
- B. An Insurer or its service provider shall not charge any beneficiary or other authorized representative for any fees or costs associated with a Death Master File Search or verification of a Death Master File Match conducted pursuant to this section.
- C. The benefits from a Policy, Contract or a Retained Asset Account, plus any applicable accrued *contractual* interest shall first be payable to the designated beneficiaries or owners and in the event said beneficiaries or owners can not be found, shall escheat to the state as unclaimed property pursuant to *[Cite state statute for escheat or unclaimed life insurance benefits]*. Interest payable under *[cite insurance code statutory interest law]* shall not be payable as unclaimed property under *[cite state statute for escheat of unclaimed life insurance benefits]*.

*Drafting note: Some states' insurance commissioners may want to develop an informational notice that apprises beneficiaries of their rights to the payment of interest on the benefits or proceeds of a life insurance policy or retained asset account. The written notice should be provided by a life insurer to a beneficiary prior to or concurrent with the payment of any life insurance proceeds or the settlement of any life insurance claim, where applicable.*

- D. An insurer shall notify the *[Insert the state agency for unclaimed property]* upon the expiration of the statutory time period for escheat that:
1. a Policy or Contract beneficiary or Retained Asset Account holder has not submitted a claim with the insurer; and
  2. the insurer has complied with subsection A of this Section and has been unable, after good faith efforts documented by the insurer, to contact the Retained Asset Account holder, beneficiary or beneficiaries
- E. Upon such notice, an insurer shall immediately submit the unclaimed Policy or Contract benefits or unclaimed Retained Asset Accounts, plus any applicable accrued interest, to the *[Insert the state agency for unclaimed property]*.
- F. Failure to meet any requirement of this section with such frequency as to constitute a general business practice is a violation of *[Insert State Unfair Trade Practices Statute]*. Nothing herein shall be construed to create or imply a private cause of action for a violation of this Section.

*Drafting note: Some states' Unfair Trade Practices statutes specify that an act must be shown to be a "pattern" or "general business practice" in order to constitute a violation of that statute. In those instances, care should be taken in the adoption of this model to ensure consistency across those two statutes.*

## **Section 6.                      Effective Date**

This Act shall take effect no less than one year after the date signed into law.

*Drafting note: To address other concerns with transparency and accountability in life insurer procedures relating to treatment of retained asset accounts, please refer to the NCOIL Beneficiaries' Bill of Rights, which requires extensive written disclosures to consumer and insurer reporting.*