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## National Council of Insurance Legislators (NCOIL)

### Beneficiaries' Bill of Rights

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*\*Adopted by the NCOIL Executive Committee on November 21, 2010, and the NCOIL Life Insurance & Financial Planning Committee on November 19, 2010. Readopted by the NCOIL Executive Committee on February 28, 2016. To be considered for re-adoption during Spring Meeting in April, 2021*

#### Section 1. Short Title

This Act shall be known as the Beneficiaries' Bill of Rights.

#### Section 2. Purpose

This Act will require complete and proper disclosure, transparency, and accountability relating to any method of payment for life insurance death benefits and require that beneficiaries are fully informed—in bold type and in layman's language—of their options.

#### Section 3. Definitions

A. "Policy" means any policy or certificate of life insurance that provides a death benefit.

B. "Retained Asset Account" means any mechanism whereby the settlement of proceeds payable under a life insurance policy, including but not limited to the payment of cash surrender value, is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account, where those proceeds are retained by the insurer, pursuant to a supplementary contract not involving annuity 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. General Requirements

A. An insurer may not use a retained asset account as the mode of settlement unless the insurer discloses such option to the beneficiary or the beneficiary's legal representative prior to the transfer of the death benefit to a retained asset account.

B. A beneficiary shall be informed of his or her rights to receive a lump-sum payment of life insurance proceeds in the form of a bank check or other form of immediate full payment of benefits.

### **Section 5. Disclosure Requirements**

A. A complete listing and clear explanation of all of the life insurance proceeds payment options available to the beneficiary in written or electronic format shall accompany the tender of other than a lump sum payment of a life insurance death benefit.

B. The use of a retained asset account shall require in the description and explanation pursuant to Subsection 5(A) the following:

1. The recommendation to consult a tax, investment, or other financial advisor regarding tax liability and investment options;
2. The initial interest rate, when and how interest rates may change, and any dividends and other gains that may be paid or distributed to the account holder;
3. The custodian of the funds or assets of the account;
4. The coverage guaranteed by the Federal Deposit Insurance Corporation (FDIC), if any, and the amount of such coverage;
5. The limitations, if any, on the numbers and amounts of withdrawals of funds from the account, including any minimum or maximum benefit payment amounts;
6. The delays, if any, that the account holder may encounter in completing authorized transactions and the anticipated duration of such delays;
7. The services provided for a fee, including a list of the fees or the method of their calculation;
8. The nature and frequency of statements of account;
9. The payment of some or all of the proceeds of the death benefit may be by the delivery of checks, drafts, or other instruments to access the available funds;
10. The entire proceeds are available to the account holder by the use of one such check, draft, or other instrument;
11. The insurer or a related party may derive income, in addition to any fees charged on the account, from the total gains received on the investment of the balance of funds in the account;

12. The telephone number, address, and other contact information, including website address, to obtain additional information regarding the account; and

13. The following statement, “FOR FURTHER INFORMATION, PLEASE CONTACT YOUR STATE DEPARTMENT OF INSURANCE.”

C. The writings produced to satisfy the requirements of this Section shall be in easy-to-understand language and bold or at least 12-point type.

## **Section 6. Insurer Reporting**

A. Insurers shall, on an annual basis, report the following information to the [Insert State Insurance Department]:

1. The number and dollar balance of retained asset accounts in force at the beginning of the year;
2. The number and dollar amount of retained asset accounts issued/added during the year;
3. The number and dollar amount of retained asset accounts closed out/withdrawn during the year;
4. The number and dollar balance of retained asset accounts in force at the end of the year;
5. The investment earnings or interest credited to retained asset accounts;
6. Fees and other charges assessed during the year;
7. A narrative description of how the accounts are structured. The description shall include:
  - (a) all of the different interest rates paid to retained asset account holders during the reporting year and the number of times changes were made during the reporting year;
  - (b) a list of all applicable fees charged by the reporting entity directly or indirectly associated with the retained asset accounts; and
  - (c) whether the retained asset accounts were the default method for satisfying life insurance claims;
8. The number and balance of retained asset accounts in force at the end of the current year and prior year segregated within “aging categories” of “up to 12 months,” “13 to 24 months,” “25 to 36 months,” “37 to 48 months,” “49 to 60 months,” and “over 60 months;

9. The identity of any entity or financial institution that administers retained asset accounts on the insurer's behalf;
10. The number and amounts of retained asset accounts that are transferred annually to the state unclaimed property funds under abandoned property laws; and
11. Any other information relating to retained asset accounts as prescribed by the [Insert State Insurance Department].

B. An insurer shall immediately return any remaining balance held in a retained asset account to the beneficiary when the account becomes inactive. A retained asset account shall become inactive for purposes of this subsection if no funds are withdrawn from the account, and if no affirmative directive has been provided to the insurer by the beneficiary, during any continuous three-year period.

C. All marketing materials, disclosure statements, and supplemental contract forms utilized in connection with retained asset accounts shall be filed with the [Insert State Insurance Department] prior to their use. The commissioner shall disapprove any materials, statements, or forms submitted under this section that are inconsistent with Section 5 or are otherwise untrue, deceptive, or misleading.

### **Section 7. Unfair Trade Practice**

Failure to meet any requirement of this Act is a violation of [Insert State Unfair Trade Practices Statute].

*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 8. Effective Date**

This Act shall apply to claims for a death benefit under any policy or certificate of life insurance subject to the insurance laws of the state where the beneficiary resides submitted on or after [insert appropriate date].

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