

BILL ANALYSIS

C.S.H.B. 1243
By: Smithee
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that life insurance and annuity contract proceeds for which a beneficiary does not submit a claim too often become unclaimed property. C.S.H.B. 1243 seeks to address this issue by providing a uniform process for insurers to search for and identify deceased persons and to handle the proceeds when a deceased person is identified.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 1243 amends the Insurance Code to require an insurer to periodically compare its applicable in-force life insurance policies, annuity contracts, and retained asset accounts against a Death Master File, defined by the bill as the U.S. Social Security Administration's Death Master File or any other database or service that is at least as comprehensive as that file for determining whether a person is dead, to identify potential Death Master File matches. The bill requires an insurer to perform the first comparison of a policy, contract, or account against a full Death Master File and thereafter against Death Master File update files to identify potential Death Master File matches. The bill requires an insurer to first conduct the comparison electronically to the extent the insurer's records are available in electronic format, and then using the most easily accessible insurer records for any records that are not available electronically. The bill requires each subsequent comparison to include all applicable in-force life insurance policies, annuity contracts, and retained asset accounts and any policies, contracts, or accounts that have lapsed since the previous comparison. The bill requires an insurer to implement procedures for conducting the required comparisons to account for certain variations or inaccuracies in identifying information.

C.S.H.B. 1243 requires an insurer, not later than the 90th day after the date the insurer identifies a Death Master File match, to complete a documented good faith effort to confirm the death of the insured or retained asset account holder against other available records and information, to review the insurer's records to determine whether the deceased individual had purchased or was otherwise covered by any of the insurer's other products, and to determine whether proceeds may be due in accordance with the applicable policy or contract or terms governing the applicable account. The bill requires an insurer for group life insurance or a group annuity contract to confirm the possible death of an insured or retained asset account holder under the bill's

provisions only if the insurer provides recordkeeping services for the group policy or group annuity contract. The bill requires an insurer, on determining that proceeds may be due and a beneficiary or other authorized representative has not communicated with the insurer on or before the 90th day after the date the insurer identifies a Death Master File match, to complete a documented good faith effort to locate and contact each beneficiary or other authorized representative on the relevant policy, contract, or account and to provide to the beneficiary or authorized representative the appropriate claim forms, instructions, or information to make a claim, including information about any need to provide an official death certificate or show proof of death under the applicable policy or contract or terms governing the applicable account. The bill authorizes an insurer that is unable to confirm the death of an insured or retained asset account holder after the insurer identifies a Death Master File match to consider the relevant policy, contract, or account to remain in force according to its terms. The bill authorizes an insurer, to the extent permitted by law, to disclose minimum necessary personal information about the insured, retained asset account holder, or beneficiary to a person the insurer reasonably believes may be able to assist the insurer in locating a person entitled to payment of the claim proceeds. The bill prohibits an insurer or the insurer's service provider from charging an insured, retained asset account holder, beneficiary, or authorized representative any fees or costs associated with conducting a Death Master File comparison or verifying a Death Master File match under the bill's provisions.

C.S.H.B. 1243 makes the proceeds of an applicable life insurance policy, annuity contract, or retained asset account, and any accrued contractual interest, first payable to each designated beneficiary or owner as provided by the applicable policy or contract or terms governing the applicable account. The bill establishes that if a Death Master File match is confirmed, the proceeds of the relevant policy, contract, or account are considered unclaimed proceeds for purposes of provisions governing unclaimed life insurance and annuity contract proceeds on the third anniversary of the date on which, according to the insurer's records, the insurer completed a required good faith effort that failed to locate a beneficiary or authorized representative if the proceeds remain unpaid and no beneficiary or authorized representative has submitted a claim for the proceeds to the insurer before that date. The bill requires an insurer to report and deliver unclaimed proceeds to the comptroller of public accounts and clarifies that for purposes of the bill's provisions unclaimed proceeds do not include any statutory interest on the proceeds of a life insurance policy.

C.S.H.B. 1243 authorizes the commissioner of insurance to adopt rules to implement the bill's provisions. The bill authorizes the commissioner to issue an order limiting the Death Master File comparisons to only those files the insurer maintains in searchable electronic format or approving a plan and timeline for an insurer to convert the insurer's files to searchable electronic format, an order exempting an insurer from the required Death Master File comparisons or permitting an insurer to perform the comparisons less frequently than required on a showing of hardship to the insurer, or an order permitting an insurer to phase in compliance with the bill's provisions according to a plan and timeline approved by the commissioner. The bill expressly does not limit an insurer's right to request a death certificate as part of a claim validation process. The bill applies only to an insurance policy or annuity contract delivered, issued for delivery, or renewed on or after January 1, 2018, or a retained asset account established in connection with the insurance policy or annuity contract.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1243 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

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

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

Sec. 1109.010. DEFINITIONS.

Sec. 1109.011. IDENTIFICATION OF DEATH MASTER FILE MATCHES. (a)

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

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

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

(1) 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;

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

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

(4) an incomplete social security number.

(d) This section does not apply to a life insurance policy or annuity contract for which the insurer has received a premium from outside the policy or cash value by check, bank draft, payroll deduction, or any other similar method of active premium payment in the 18 months immediately

HOUSE COMMITTEE SUBSTITUTE

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

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

Sec. 1109.010. DEFINITIONS.

Sec. 1109.011. IDENTIFICATION OF DEATH MASTER FILE MATCHES. (a)

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

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

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

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

(1) 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;

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

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

(4) an incomplete social security number.

preceding the Death Master File comparison.

Sec. 1109.012. DUTIES REGARDING DEATH MASTER FILE MATCH. (a) For each Death Master File match, the insurer shall, not later than the 90th day after the date the insurer identifies the match:

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

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

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

(b) For group life insurance or a group annuity contract, an insurer is required to confirm the possible death of an insured or retained asset account holder under this section only if the insurer provides recordkeeping services for the group policy or group annuity contract.

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

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

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

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

(e) To the extent permitted by law, the insurer may disclose minimum necessary personal information about the insured, retained asset account holder, or beneficiary

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

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

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

(b) For group life insurance or a group annuity contract, an insurer is required to confirm the possible death of an insured or retained asset account holder under this section only if the insurer provides recordkeeping services for the group policy or group annuity contract.

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

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

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

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

(e) To the extent permitted by law, the insurer may disclose minimum necessary personal information about the insured, retained asset account holder, or beneficiary

to a person the insurer reasonably believes may be able to assist the insurer in locating a person entitled to payment of the claim proceeds.

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

Sec. 1109.013. PRESUMPTION OF UNCLAIMED PROCEEDS; REPORT AND DELIVERY OF PROCEEDS. (a)

The proceeds of a life insurance policy, annuity contract, or retained asset account, and any accrued contractual interest, are first payable to each designated beneficiary or owner as provided by the applicable policy or contract or terms governing the applicable account.

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

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

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

(e) For purposes of this section, unclaimed proceeds do not include any accrued contractual interest.

Sec. 1109.014. RULEMAKING AUTHORITY.

Sec. 1109.015. AUTHORITY TO ISSUE CERTAIN ORDERS.

Sec. 1109.016. AUTHORITY TO REQUEST DEATH CERTIFICATE.

Sec. 1109.017. APPLICATION WITH OTHER LAW; CONFLICTS. This subchapter applies to proceeds in addition to the other provisions of this chapter and the provisions of Chapter 74, Property Code. In the event of a conflict between this

to a person the insurer reasonably believes may be able to assist the insurer in locating a person entitled to payment of the claim proceeds.

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

Sec. 1109.013. PRESUMPTION OF UNCLAIMED PROCEEDS; REPORT AND DELIVERY OF PROCEEDS. (a)

The proceeds of a life insurance policy, annuity contract, or retained asset account, and any accrued contractual interest, are first payable to each designated beneficiary or owner as provided by the applicable policy or contract or terms governing the applicable account.

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

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

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

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

Sec. 1109.014. RULEMAKING AUTHORITY.

Sec. 1109.015. AUTHORITY TO ISSUE CERTAIN ORDERS.

Sec. 1109.016. AUTHORITY TO REQUEST DEATH CERTIFICATE.

subchapter and one of those provisions, this subchapter prevails.

SECTION 2. Subchapter A-1, Chapter 1109, Insurance Code, as added by this Act, applies only to an insurance policy or annuity contract delivered, issued for delivery, or renewed on or after January 1, 2018, or a retained asset account established in connection with the insurance policy or annuity contract. An insurance policy or annuity contract delivered, issued for delivery, or renewed before that date, or a retained asset account established in connection with the insurance policy or annuity contract, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

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

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.