

SESSION OF 2019

SUPPLEMENTAL NOTE ON SENATE BILL NO. 67

As Recommended by Senate Committee on
Financial Institutions and Insurance

Brief*

SB 67 would establish the Unclaimed Life Insurance Benefits Act (Act). The description of specific bill provisions follows.

Definitions [Section 2]

The bill would establish definitions for the following terms under the Act:

- “Contract” means an annuity contract. The term “contract” shall not include an annuity used to fund an employment-based retirement plan or program where the insurer does not perform the record keeping services, or the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants;
- “Death Master File” means the U.S. Social Security Administration’s (SSA) Death Master File (DMF) or any other database or service that is at least as comprehensive as the SSA’s DMF for determining that a person has reportedly died;
- “Death Master File match” means a search of the DMF that results in a match of the Social Security number or the name and date of birth of an

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

insured, annuity owner, or retained asset account holder;

- “Knowledge of death” means receipt of an original or valid copy of a certified death certificate, or a DMF match validated by the insurer in accordance with the bill;
- “Policy” means any policy or certificate of life insurance that provides a death benefit. The term “policy” shall not include:
 - Any 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 (ERISA) (29 USC Section 1002) or under any federal employee benefit program;
 - Any policy or certificate of life insurance used to fund a preneed funeral contract or prearrangement;
 - Any policy or certificate of credit life or accidental death insurance; or
 - Any policy issued to a group master policyholder for which the insurer does not provide record keeping services;
- “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: Social Security number or name and date of birth, beneficiary designation information, coverage eligibility, benefit amount, and premium payment status; and

- “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.

Requirements of Insurers; Prohibitions; Unclaimed Property; Unfair or Deceptive Acts [Section 3]

Comparison of Policies and Accounts against a DMF

The bill would require an insurer to compare its insureds' in-force policies, contracts, and retained asset accounts against a DMF, on at least a semi-annual basis, by using the full DMF once and then using the DMF update files for future comparisons to identify potential matches of its insureds.

Confirmation of Death and Location of Beneficiary or Beneficiaries within 90 Days

The bill would require the insurer, for those potential matches identified as a result of the DMF match, within 90 days of the match:

- Complete a good faith effort documented by the insurer to confirm the death of the insured or retained asset account holder against other available records and information; and
- Determine whether benefits are due in accordance with the applicable policy or contract and, if benefits are due, use good faith efforts documented by the insurer to locate the beneficiary or beneficiaries and provide the appropriate claim

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.

Confirmation of Death for Group Life Insurance Policy or Certificate

The bill would require insurers, for group life insurance, to confirm the possible death of an insured when the insurers maintain at least the Social Security number or name and date of birth, beneficiary designation information, coverage eligibility, benefit amount, and premium payment status of those covered under a policy or certificate.

Implementation of Procedures

The bill would require insurers to implement procedures to account for 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; compound last names, maiden or married names, and hyphens, blank spaces, or apostrophes in last names; transposition of the month and date portions of the date of birth; and incomplete Social Security numbers.

Disclosure of Personal Information

The bill would authorize an insurer to 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, as permitted by law.

Prohibition on Charging Fees

The bill would prohibit an insurer or its service provider from charging any beneficiary or other authorized representative for any fees or costs associated with a DMF search or verification of a DMF match under the bill.

Application of the Unclaimed Property Act; Notification to State Treasurer

The bill would require the benefits from a policy, contract, or a retained asset account, plus any applicable accrued contractual interest, to first be payable to the designated beneficiaries or owners. The bill would state, in the event the beneficiaries or owners cannot be found, these benefits and interest would revert to the State as unclaimed property pursuant to the Uniform Unclaimed Property Act, KSA 58-3936 (this provision of law provides general rules for taking custody of intangible unclaimed property). The bill would specify interest payable on life insurance proceeds under KSA 40-447 would not be payable as unclaimed property.

The bill would require an insurer to notify the State Treasurer upon the expiration of the statutory time period for those benefits to revert to the State that a policy or contract beneficiary or retained asset account holder has not submitted a claim with the insurer, and the insurer has been unable, after good faith efforts, documented by the insurer, to contact the retained asset account holder, beneficiary, or beneficiaries. The insurer would be required, upon such notice, to immediately submit the unclaimed policy or contract benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the State Treasurer.

Unfair or Deceptive Acts

The bill would state the failure to meet any requirement of this section with such frequency as to constitute a general

business practice would be considered an unfair or deceptive act or practice under the unfair trade practices law (KSA 40-2404) and subject to the penalties contained under the unfair trade practices law (KSA 40-2401 *et seq.*). The bill would also specify the bill should not be construed to create or imply a private cause of action for a violation of this section (provisions pertaining to comparison against a DMF).

Background

The bill was introduced by the Senate Committee on Financial Institutions and Insurance at the request of the American Council of Life Insurers (ACLI). In the Senate Committee hearing, a representative of ACLI spoke in favor of the bill, noting 99.0 percent of valid life insurance claims are paid, and the bill would add consumer protection by helping to find persons who might otherwise be unaware they are beneficiaries to a life insurance policy. The representative also noted 29 states have enacted law similar to the bill, which is a National Council of Insurance Legislators model law.

No neutral or opponent testimony was provided.

According to the fiscal note prepared by the Division of the Budget, the Kansas Insurance Department indicated enactment of the bill could result in additional costs related to enforcement actions on life insurers that violate provisions of the bill. However, the fiscal effect cannot be estimated because the number of additional enforcement actions that would result from enactment of the bill is unknown. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.