



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB0302

by Rep. Robert Martwick

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Unclaimed Life Insurance Benefits Act. Provides that "policy" includes a policy that has lapsed or been terminated. Requires insurers to, at no later than the date of policy delivery or the establishment of an account, and upon any change of insured or beneficiary, request information sufficient to ensure that all benefits or proceeds are distributed to the appropriate persons upon the death of the insured. Allows insurers to contact insureds in certain circumstances for the information. Provides that the Act applies to policies, annuity contracts, and retained asset accounts in force at any time on or after January 1, 1996 (rather than on or after the effective date of the Act). Provides that the Act does not apply to a lapsed or terminated policy with no benefits payable that was compared against the Death Master File within the 18 months following the date of the lapse or termination of the applicable policy. Amends the Vital Records Act. Provides that any information contained in the vital records shall be made available at no cost to the State Treasurer for purposes related to the Uniform Disposition of Unclaimed Property Act. Amends the Uniform Disposition of Unclaimed Property Act. Removes provisions concerning certain fees and charges for unclaimed property. Provides that no person or company shall be entitled to a fee for discovering presumptively unclaimed property during the period beginning on the date the property was presumed abandoned and ending 24 months after the payment or delivery of the property to the State Treasurer (rather than until it has been in the custody of the State Treasurer for at least 24 months). Makes other changes.

LRB100 05672 SMS 16166 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Unclaimed Life Insurance Benefits Act is  
5 amended by changing Sections 10, 15, and 35 as follows:

6 (215 ILCS 185/10)

7 Sec. 10. Definitions. As used in this Act:

8 "Annuity contract" does not include an annuity contract  
9 used to fund an employment-based retirement plan or program  
10 where (1) the insurer does not perform the record keeping  
11 services or (2) the insurer is not committed by the terms of  
12 the annuity contract to pay death benefits to the beneficiaries  
13 of specific plan participants.

14 "Date of death" means the date on which an insured, annuity  
15 owner, or retained asset account holder died.

16 "Date of death notice" means the date the insurer first has  
17 notice of the date of death of an insured, annuity owner, or  
18 retained asset account holder. "Date of death notice" includes,  
19 but is not limited to, the date the insurer received  
20 information or gained knowledge of a Death Master File match or  
21 any other source or record maintained or located in insurer  
22 records of the death of an insured, annuity owner, or retained  
23 asset account holder.

1 "Death Master File" means the United States Social Security  
2 Administration's Death Master File or any other database or  
3 service that is at least as comprehensive as the United States  
4 Social Security Administration's Death Master File for  
5 determining that a person has reportedly died.

6 "Death Master File match" means a match of the social  
7 security number or the name and date of birth of an insured,  
8 annuity owner, or retained asset account holder resulting from  
9 a search of the Death Master File.

10 "Department" means the Department of Insurance.

11 "Lost policy finder" means a service made available by the  
12 Department on its website or otherwise developed by the  
13 Department to assist consumers with locating unclaimed life  
14 insurance benefits.

15 "Policy" means any policy or certificate of life insurance  
16 that provides a death benefit, including a policy that has  
17 lapsed or been terminated. "Policy" does not include any policy  
18 or certificate of credit life or accidental death insurance or  
19 health coverages, including, but not limited to, disability and  
20 long-term care arising from the reported death of a person  
21 insured under the coverage, or any policy issued to a group  
22 master policyholder for which the insurer does not provide  
23 record keeping services.

24 "Record keeping services" means services provided under  
25 circumstances in which the insurer has agreed with a group  
26 policy or annuity contract customer to be responsible for

1 obtaining, maintaining, and administering its own or its  
2 agents' systems information about each individual insured  
3 under an insured's group insurance contract, or a line of  
4 coverage thereunder, including, but not limited to, the  
5 following: (1) social security number or name and date of  
6 birth, (2) beneficiary designation information, (3) coverage  
7 eligibility, (4) benefit amount, and (5) premium payment  
8 status.

9 "Retained asset account" means any mechanism whereby the  
10 settlement of proceeds payable under a policy or annuity  
11 contract is accomplished by the insurer or an entity acting on  
12 behalf of the insurer depositing the proceeds into an account  
13 with check or draft writing privileges, where those proceeds  
14 are retained by the insurer or its agent pursuant to a  
15 supplementary contract not involving annuity benefits other  
16 than death benefits.

17 (Source: P.A. 99-893, eff. 1-1-17.)

18 (215 ILCS 185/15)

19 Sec. 15. Insurer conduct.

20 (a) An insurer shall initially perform a comparison of its  
21 insureds', annuitants', and retained asset account holders'  
22 in-force policies, annuity contracts, and retained asset  
23 accounts by using the full Death Master File. The initial  
24 comparison shall be completed on or before December 31, 2017,  
25 unless extended by the Department pursuant to administrative

1 rule. Thereafter, an insurer shall perform a comparison on at  
2 least a semi-annual basis using the Death Master File update  
3 files for comparisons to identify potential matches of its  
4 insureds, annuitants, and retained asset account holders. In  
5 the event that one of the insurer's lines of business conducts  
6 a search for matches of its insureds, annuitants, and retained  
7 asset account holders against the Death Master File at  
8 intervals more frequently than semi-annually, then all lines of  
9 the insurer's business shall conduct searches for matches  
10 against the Death Master File with the same frequency. Within 6  
11 months after acquisition of policies, annuity contracts, or  
12 retained asset accounts from another insurer, the acquiring  
13 insurer shall compare all newly acquired policies, annuity  
14 contracts, and retained asset accounts that were not searched  
15 by the previous insurer in compliance with this Act against the  
16 complete Death Master File to identify potential matches of its  
17 insureds, annuitants, and retained asset account holders. Upon  
18 any subsequent acquisition of policies, annuity contracts, or  
19 retained asset accounts from another insurer, when the previous  
20 insurer has already conducted a search of the newly acquired  
21 policies, annuity contracts, and retained asset accounts using  
22 the complete Death Master File, the acquiring insurer shall  
23 compare all newly acquired policies, annuity contracts, and  
24 retained asset accounts using all of the Death Master File  
25 updates since the time the previous insurer conducted the  
26 complete search to identify potential matches of its insureds,

1 annuitants, and retained asset account holders.

2 An insured, an annuitant, or a retained asset account  
3 holder is presumed dead if the date of his or her death is  
4 indicated by the comparison required in this subsection (a),  
5 unless the insurer has competent and substantial evidence that  
6 the person is living, including, but not limited to, a contact  
7 made by the insurer with the person or his or her legal  
8 representative.

9 For those potential matches identified as a result of a  
10 Death Master File match, the insurer shall within 120 days  
11 after the date of death notice, if the insurer has not been  
12 contacted by a beneficiary, determine whether benefits are due  
13 in accordance with the applicable policy or contract and, if  
14 benefits are due in accordance with the applicable policy or  
15 contract:

16 (1) use good faith efforts, which shall be documented  
17 by the insurer, to locate the beneficiary or beneficiaries;  
18 the Department shall establish by administrative rule  
19 minimum standards for what constitutes good faith efforts  
20 to locate a beneficiary, which shall include: (A) searching  
21 insurer records; (B) the appropriate use of First Class  
22 United States mail, e-mail addresses, and telephone calls;  
23 and (C) reasonable efforts by insurers to obtain updated  
24 contact information for the beneficiary or beneficiaries;  
25 good faith efforts shall not include additional attempts to  
26 contact the beneficiary at an address already confirmed not

1 to be current; and

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

7 (b) Insurers shall implement procedures to account for the  
8 following when conducting searches of the Death Master File:

9 (1) common nicknames, initials used in lieu of a first  
10 or middle name, use of a middle name, compound first and  
11 middle names, and interchanged first and middle names;

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

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

16 (4) incomplete social security numbers.

17 (c) To the extent permitted by law, an insurer may disclose  
18 the minimum necessary personal information about the insured,  
19 annuity owner, retained asset account holder, or beneficiary to  
20 a person whom the insurer reasonably believes may be able to  
21 assist the insurer with locating the beneficiary or a person  
22 otherwise entitled to payment of the claims proceeds.

23 (d) An insurer or its service provider shall not charge any  
24 beneficiary or other authorized representative for any fees or  
25 costs associated with a Death Master File search or  
26 verification of a Death Master File match conducted pursuant to

1 this Act.

2 (e) The benefits from a policy, annuity contract, or a  
3 retained asset account, plus any applicable accrued interest,  
4 shall first be payable to the designated beneficiaries or  
5 owners and, in the event the beneficiaries or owners cannot be  
6 found, shall be reported and delivered to the State Treasurer  
7 pursuant to the Uniform Disposition of Unclaimed Property Act.  
8 Nothing in this subsection (e) is intended to alter the amounts  
9 reportable under the existing provisions of the Uniform  
10 Disposition of Unclaimed Property Act or to allow the  
11 imposition of additional statutory interest under Article XIV  
12 of the Illinois Insurance Code.

13 (f) Failure to meet any requirement of this Section with  
14 such frequency as to constitute a general business practice is  
15 a violation of Section 424 of the Illinois Insurance Code.  
16 Nothing in this Section shall be construed to create or imply a  
17 private cause of action for a violation of this Section.

18 (g) At no later than the date of policy delivery or the  
19 establishment of an account, and upon any change of insured or  
20 beneficiary, an insurer shall request information sufficient  
21 to ensure that all benefits or proceeds are distributed to the  
22 appropriate persons upon the death of the insured, including,  
23 at a minimum, the name, address, date of birth, social security  
24 number, and telephone number of every insured and beneficiary  
25 of the policy or account, as applicable. However, where an  
26 insurer issues a policy or provides an account based on



1 information received directly from an insured's employer, the  
2 insurer may obtain the beneficiary information by  
3 communicating with the insured after the insurer's receipt of  
4 the information from the insured's employer.

5 (Source: P.A. 99-893, eff. 1-1-17.)

6 (215 ILCS 185/35)

7 Sec. 35. Application. The provisions of this Act apply to  
8 policies, annuity contracts, and retained asset accounts in  
9 force at any time on or after January 1, 1996 ~~the effective~~  
10 ~~date of this Act.~~ This Act does not apply to a lapsed or  
11 terminated policy with no benefits payable that was compared  
12 against the Death Master File within the 18 months following  
13 the date of the lapse or termination of the applicable policy  
14 or that was searched more than 18 months prior to the most  
15 recent comparison against the Death Master File conducted by  
16 the insurer.

17 (Source: P.A. 99-893, eff. 1-1-17.)

18 Section 10. The Vital Records Act is amended by adding  
19 Section 24.6 as follows:

20 (410 ILCS 535/24.6 new)

21 Sec. 24.6. Access to records; State Treasurer. Any  
22 information contained in the vital records shall be made  
23 available at no cost to the State Treasurer for administrative

1 purposes related to the Uniform Disposition of Unclaimed  
2 Property Act.

3 Section 15. The Uniform Disposition of Unclaimed Property  
4 Act is amended by changing Section 20 as follows:

5 (765 ILCS 1025/20) (from Ch. 141, par. 120)

6 Sec. 20. Determination of claims.

7 (a) The State Treasurer shall consider any claim filed  
8 under this Act and may, in his discretion, hold a hearing and  
9 receive evidence concerning it. Such hearing shall be conducted  
10 by the State Treasurer or by a hearing officer designated by  
11 him. No hearings shall be held if the payment of the claim is  
12 ordered by a court, if the claimant is under court  
13 jurisdiction, or if the claim is paid under Article XXV of the  
14 Probate Act of 1975. The State Treasurer or hearing officer  
15 shall prepare a finding and a decision in writing on each  
16 hearing, stating the substance of any evidence heard by him,  
17 his findings of fact in respect thereto, and the reasons for  
18 his decision. The State Treasurer shall review the findings and  
19 decision of each hearing conducted by a hearing officer and  
20 issue a final written decision. The final decision shall be a  
21 public record. Any claim of an interest in property that is  
22 filed pursuant to this Act shall be considered and a finding  
23 and decision shall be issued by the Office of the State  
24 Treasurer in a timely and expeditious manner.

1 (b) If the claim is allowed, ~~and after deducting an amount~~  
2 ~~not to exceed \$20 to cover the cost of notice publication and~~  
3 ~~related clerical expenses,~~ the State Treasurer shall make  
4 payment forthwith.

5 (c) In order to carry out the purpose of this Act, no  
6 person or company shall be entitled to a fee for discovering  
7 presumptively abandoned property during the period beginning  
8 on the date the property was presumed abandoned under this Act  
9 and ending 24 months after the payment or delivery of the  
10 property to ~~until it has been in the custody of~~ the Unclaimed  
11 Property Division of the Office of the State Treasurer ~~for at~~  
12 ~~least 24 months.~~ Fees for discovering property that has been in  
13 the custody of that division for more than 24 months shall be  
14 limited to not more than 10% of the amount collected.

15 (d) A person or company attempting to collect a contingent  
16 fee for discovering, on behalf of an owner, presumptively  
17 abandoned property must be licensed as a private detective  
18 pursuant to the Private Detective, Private Alarm, Private  
19 Security, Fingerprint Vendor, and Locksmith Act of 2004.

20 (e) This Section shall not apply to the fees of an attorney  
21 at law duly appointed to practice in a state of the United  
22 States who is employed by a claimant with regard to probate  
23 matters on a contractual basis or to contest a denial of a  
24 claim for recovery of the property.

25 (f) Any person or company offering to identify, discover,  
26 or collect ~~presumptively abandoned property or~~ property which

1 may become presumptively abandoned on behalf of the putative  
2 owner of such property in exchange for a fee, must provide the  
3 owner with a written disclosure. The disclosure shall be set  
4 forth in a clear and conspicuous manner and at a minimum shall  
5 state the following:

6 Each state maintains an office of unclaimed property.  
7 Generally, if for a number of years an owner of property  
8 has not communicated directly with the holder of the  
9 property, and has not otherwise indicated an interest in or  
10 claimed the property, the property will be delivered to a  
11 state administered unclaimed property program. Upon such  
12 delivery, the owner will be able to recover the property  
13 from the state administered program without charge by the  
14 state. The unclaimed asset referred to in this Agreement  
15 has not yet been reported or remitted to any state  
16 unclaimed property office. Since you reside (or resided) in  
17 Illinois, you may obtain information about the Illinois  
18 unclaimed property program by logging onto its website at  
19 [www.illinoistreasurer.gov](http://www.illinoistreasurer.gov) ~~[www.treasurer.il.gov](http://www.treasurer.il.gov)~~.

20 ~~A person or company may not charge a fee greater than~~  
21 ~~25% of the property's value for the recovery of that~~  
22 ~~property where the property is not yet reportable under~~  
23 ~~this Act and the designated owner of that property, as~~  
24 ~~reflected within the books and records of the holder, is~~  
25 ~~living.~~

26 ~~A person or company may not charge a fee greater than~~

1       ~~33% of the property's value for the recovery of that~~  
2       ~~property where the property is not yet reportable under~~  
3       ~~this Act and the recovery of that property involves~~  
4       ~~documentation of the owner's death or any elements of~~  
5       ~~estate or trust administration.~~

6       (Source: P.A. 95-613, eff. 9-11-07; 95-1003, eff. 6-1-09.)

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2

Statutes amended in order of appearance

3

215 ILCS 185/10

4

215 ILCS 185/15

5

215 ILCS 185/35

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410 ILCS 535/24.6 new

7

765 ILCS 1025/20

from Ch. 141, par. 120