

S T A T E O F N E W Y O R K

9845--B

R. R. 215

I N A S S E M B L Y

April 18, 2012

Introduced by M. of A. MORELLE, WEINSTEIN -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Rules -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading

AN ACT to amend the insurance law, in relation to unclaimed life insurance benefits

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The insurance law is amended by adding a new section 3213-a
2 to read as follows:

3 S 3213-A. UNCLAIMED BENEFITS. (A) DEFINITIONS. FOR THE PURPOSES OF
4 THIS SECTION:

5 (1) "ACCOUNT" MEANS ANY MECHANISM, WHETHER DENOTED AS A RETAINED ASSET
6 ACCOUNT OR OTHERWISE, WHEREBY THE SETTLEMENT OF PROCEEDS PAYABLE TO A
7 BENEFICIARY UNDER A POLICY IS ACCOMPLISHED BY THE INSURER OR AN ENTITY
8 ACTING ON BEHALF OF THE INSURER WHERE THE PROCEEDS ARE RETAINED BY THE
9 INSURER PURSUANT TO A SUPPLEMENTARY CONTRACT.

10 (2) "DEATH INDEX" MEANS THE DEATH MASTER FILE MAINTAINED BY THE UNITED
11 STATES SOCIAL SECURITY ADMINISTRATION OR ANY OTHER DATABASE OR SERVICE
12 THAT IS AT LEAST AS COMPREHENSIVE AS THE DEATH MASTER FILE MAINTAINED BY
13 THE UNITED STATES SOCIAL SECURITY ADMINISTRATION AND THAT IS ACCEPTABLE
14 TO THE SUPERINTENDENT.

15 (3) "INSURED" INCLUDES AN INDIVIDUAL COVERED BY A POLICY OR AN ANNUI-
16 TANT WHEN THE ANNUITY CONTRACT PROVIDES FOR BENEFITS TO BE PAID OR OTHER
17 MONIES TO BE DISTRIBUTED UPON THE DEATH OF THE ANNUITANT.

18 (4) "INSURER" MEANS A LIFE INSURANCE COMPANY OR FRATERNAL BENEFIT
19 SOCIETY.

20 (5) "LOST POLICY FINDER" MEANS A SERVICE MADE AVAILABLE BY THE DEPART-
21 MENT ON ITS WEBSITE OR OTHERWISE DEVELOPED BY THE SUPERINTENDENT EITHER
22 ON HIS OR HER OWN OR IN CONJUNCTION WITH OTHER STATE REGULATORS, TO
23 ASSIST CONSUMERS IN LOCATING UNCLAIMED LIFE INSURANCE BENEFITS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD15333-08-2

1 (6) "POLICY" MEANS A LIFE INSURANCE POLICY, INCLUDING POLICIES THAT
2 HAVE LAPSED OR BEEN TERMINATED, ANNUITY CONTRACT, OR A CERTIFICATE UNDER
3 A LIFE INSURANCE POLICY OR ANNUITY CONTRACT, OR A CERTIFICATE ISSUED BY
4 A FRATERNAL BENEFIT SOCIETY, UNDER WHICH BENEFITS ARE TO BE PAID UPON
5 THE DEATH OF THE INSURED.

6 (B) APPLICABILITY. THIS SECTION SHALL APPLY TO:

7 (1) EVERY POLICY ISSUED BY A DOMESTIC INSURER AND ANY ACCOUNT ESTAB-
8 LISHED UNDER OR AS A RESULT OF SUCH POLICY; AND

9 (2) EVERY POLICY DELIVERED OR ISSUED FOR DELIVERY IN NEW YORK BY AN
10 AUTHORIZED FOREIGN INSURER AND ANY ACCOUNT ESTABLISHED UNDER OR AS A
11 RESULT OF SUCH POLICY.

12 (3) NOTWITHSTANDING PARAGRAPHS ONE AND TWO OF THIS SUBSECTION, WITH
13 RESPECT TO A POLICY DELIVERED OR ISSUED FOR DELIVERY OUTSIDE THIS STATE,
14 A DOMESTIC INSURER MAY, IN LIEU OF THE REQUIREMENTS OF THIS SECTION,
15 IMPLEMENT PROCEDURES THAT MEET THE MINIMUM REQUIREMENTS OF THE STATE IN
16 WHICH THE POLICY WAS DELIVERED OR ISSUED, PROVIDED THAT THE SUPERINTEN-
17 DENT CONCLUDES THAT SUCH OTHER REQUIREMENTS ARE NO LESS FAVORABLE TO THE
18 POLICYOWNER AND BENEFICIARY THAN THOSE REQUIRED BY THIS SECTION.

19 (4) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS ONE AND TWO OF THIS
20 SUBSECTION, THIS SECTION SHALL NOT APPLY TO LAPSED OR TERMINATED POLI-
21 CIES WITH NO BENEFITS PAYABLE THAT WERE SEARCHED WITHIN THE THREE
22 HUNDRED SIXTY-FIVE DAYS PRECEDING THE EFFECTIVE DATE OF THIS SECTION OR
23 THAT WERE SEARCHED MORE THAN EIGHTEEN MONTHS PRIOR TO THE MOST RECENT
24 SEARCH CONDUCTED BY THE INSURER.

25 (C) IDENTIFYING INFORMATION. (1) EXCEPT AS SET FORTH IN PARAGRAPH TWO
26 OF THIS SUBSECTION, AT NO LATER THAN POLICY DELIVERY OR THE ESTABLISH-
27 MENT OF AN ACCOUNT AND UPON ANY CHANGE OF INSURED, OWNER, OR BENEFICI-
28 ARY, EVERY INSURER SHALL REQUEST INFORMATION SUFFICIENT TO ENSURE THAT
29 ALL BENEFITS OR OTHER MONIES ARE DISTRIBUTED TO THE APPROPRIATE PERSONS
30 UPON THE DEATH OF THE INSURED OR ACCOUNT HOLDER, INCLUDING, AT A MINI-
31 MUM, THE NAME, ADDRESS, SOCIAL SECURITY NUMBER, DATE OF BIRTH, AND TELE-
32 PHONE NUMBER OF EVERY OWNER, INSURED AND BENEFICIARY OF SUCH POLICY OR
33 ACCOUNT, AS APPLICABLE.

34 (2) WHERE AN INSURER ISSUES A POLICY OR PROVIDES FOR AN ACCOUNT BASED
35 ON DATA RECEIVED DIRECTLY FROM AN INSURED'S EMPLOYER, THE INSURER MAY
36 OBTAIN THE BENEFICIARY INFORMATION DESCRIBED IN PARAGRAPH ONE OF THIS
37 SUBSECTION AFTER RECEIVING THE DATA FROM THE INSURED'S EMPLOYER.

38 (D) STANDARDS FOR CROSS-CHECKING POLICIES. (1) EVERY INSURER SHALL USE
39 THE DEATH INDEX TO CROSS-CHECK EVERY POLICY AND ACCOUNT SUBJECT TO THIS
40 SECTION NO LESS FREQUENTLY THAN QUARTERLY, EXCEPT AS SPECIFIED IN
41 SUBSECTION (G) OF THIS SECTION. AN INSURER MAY PERFORM THE CROSS-CHECK
42 USING THE UPDATES MADE TO THE DEATH INDEX SINCE THE DATE OF THE LAST
43 CROSS-CHECK PERFORMED BY THE INSURER, PROVIDED THAT THE INSURER PERFORMS
44 THE CROSS-CHECK USING THE ENTIRE DEATH INDEX AT LEAST ONCE A YEAR. THE
45 SUPERINTENDENT MAY PROMULGATE RULES AND REGULATIONS THAT ALLOW AN INSUR-
46 ER TO PERFORM THE CROSS-CHECKS LESS FREQUENTLY THAN QUARTERLY, PROVIDED,
47 HOWEVER, THE INSURER MUST NOT BE ALLOWED TO PERFORM SUCH CROSS-CHECKS
48 LESS THAN SEMI-ANNUALLY.

49 (2) THE CROSS-CHECKS SHALL BE PERFORMED USING THE SOCIAL SECURITY
50 NUMBER, THE NAME, AND DATE OF BIRTH OF THE INSURED OR ACCOUNT HOLDER.

51 (3) IF AN INSURER ONLY HAS A PARTIAL NAME, SOCIAL SECURITY NUMBER,
52 DATE OF BIRTH, OR A COMBINATION THEREOF, OF THE INSURED OR ACCOUNT HOLD-
53 ER UNDER A POLICY OR ACCOUNT, THE INSURER SHALL USE THE AVAILABLE INFOR-
54 MATION TO PERFORM THE CROSS-CHECK.

1 (4) EVERY INSURER SHALL IMPLEMENT REASONABLE PROCEDURES TO ACCOUNT FOR
2 COMMON VARIATIONS IN DATA THAT WOULD OTHERWISE PRECLUDE AN EXACT MATCH
3 WITH A DEATH INDEX.

4 (E) MULTIPLE POLICY SEARCH PROCEDURES. (1) UPON RECEIVING NOTIFICATION
5 OF THE DEATH OF AN INSURED OR ACCOUNT HOLDER OR IN THE EVENT OF A MATCH
6 MADE BY A DEATH INDEX CROSS-CHECK PURSUANT TO SUBSECTION (D) OF THIS
7 SECTION, AN INSURER SHALL SEARCH EVERY POLICY OR ACCOUNT SUBJECT TO THIS
8 SECTION TO DETERMINE WHETHER THE INSURER HAS ANY OTHER POLICIES OR
9 ACCOUNTS FOR THE INSURED OR ACCOUNT HOLDER.

10 (2) EVERY INSURER THAT RECEIVES A NOTIFICATION OF THE DEATH OF THE
11 INSURED OR ACCOUNT HOLDER, OR IDENTIFIES A DEATH INDEX MATCH, SHALL
12 NOTIFY EACH UNITED STATES AFFILIATE AND ANY ENTITY THAT THE INSURER
13 CONTRACTS WITH WHICH MAY MAINTAIN RECORDS RELATING TO POLICIES COVERED
14 BY THIS SECTION OF THE NOTIFICATION OR VERIFIED DEATH INDEX MATCH, WHO
15 SHALL THEN PERFORM THE SEARCH REQUIRED BY PARAGRAPH ONE OF THIS
16 SUBSECTION.

17 (F) STANDARDS FOR LOCATING CLAIMANTS. (1) EVERY INSURER SHALL ESTAB-
18 LISH PROCEDURES TO REASONABLY CONFIRM THE DEATH OF AN INSURED OR ACCOUNT
19 HOLDER AND BEGIN TO LOCATE BENEFICIARIES WITHIN NINETY DAYS AFTER THE
20 IDENTIFICATION OF A POTENTIAL MATCH MADE BY A DEATH INDEX CROSS-CHECK OR
21 BY A SEARCH CONDUCTED BY THE INSURER PURSUANT TO SUBSECTION (E) OF THIS
22 SECTION. IF THE INSURER CANNOT LOCATE BENEFICIARIES WITHIN NINETY DAYS
23 AFTER THE IDENTIFICATION OF A POTENTIAL MATCH, THE INSURER SHALL CONTIN-
24 UE TO SEARCH FOR BENEFICIARIES UNTIL THE BENEFITS ESCHEAT TO THE STATE.

25 (2) ONCE THE BENEFICIARY OR BENEFICIARIES UNDER THE POLICY OR ACCOUNT
26 HAVE BEEN LOCATED, THE INSURER SHALL PROVIDE TO THE BENEFICIARY OR BENE-
27 FICIARIES THE INFORMATION NECESSARY TO MAKE A CLAIM PURSUANT TO THE
28 TERMS OF THE POLICY OR ACCOUNT. THE INSURER SHALL PROCESS ALL CLAIMS AND
29 MAKE PROMPT PAYMENTS AND DISTRIBUTIONS IN ACCORDANCE WITH ALL APPLICABLE
30 LAWS, RULES, AND REGULATIONS.

31 (3) NOTHING HEREIN SHALL PREVENT AN INSURER FROM REQUIRING SATISFAC-
32 TORY PROOF OF LOSS, SUCH AS A DEATH CERTIFICATE, FOR THE PURPOSE OF
33 VERIFYING THE DEATH OF THE INSURED.

34 (G) THIS SECTION SHALL NOT APPLY TO:

35 (1) GROUP POLICIES WHERE THE INSURER DOES NOT MAINTAIN RECORDS ON ITS
36 ADMINISTRATIVE SYSTEMS CONTAINING THE INFORMATION NECESSARY TO COMPLY
37 WITH THE REQUIREMENTS OF THIS SECTION;

38 (2) ANY POLICY OR CERTIFICATE THAT PROVIDES A DEATH BENEFIT UNDER AN
39 EMPLOYEE BENEFIT, GOVERNMENT OR CHURCH PLAN SUBJECT TO OR AS DEFINED
40 UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (29 USC 1002),
41 AS PERIODICALLY AMENDED, OR UNDER ANY FEDERAL EMPLOYEE BENEFIT PROGRAM;

42 (3) ANY OTHER CIRCUMSTANCE AS DETERMINED TO BE APPROPRIATE BY THE
43 SUPERINTENDENT.

44 (H) LOST POLICY FINDER. (1) THE SUPERINTENDENT SHALL DEVELOP AND
45 IMPLEMENT A LOST POLICY FINDER TO ASSIST REQUESTORS IN LOCATING
46 UNCLAIMED LIFE INSURANCE BENEFITS. THE LOST POLICY FINDER SHALL BE
47 AVAILABLE ONLINE AND VIA OTHER MEANS, INCLUDING BUT NOT LIMITED TO THE
48 DEPARTMENT'S TOLL FREE TELEPHONE NUMBER. THE SUPERINTENDENT SHALL ASSIST
49 A REQUESTOR IN USING THE LOST POLICY FINDER, INCLUDING INFORMING THE
50 REQUESTOR OF WHAT INFORMATION AN INSURER MAY NEED TO FACILITATE RESPOND-
51 ING TO THE REQUEST.

52 (2) AS SOON AS PRACTICABLE BUT NO LATER THAN THIRTY DAYS AFTER RECEIV-
53 ING A REQUEST FROM A REQUESTOR VIA THE LOST POLICY FINDER, THE SUPER-
54 INTENDENT SHALL:

1 (I) FORWARD THE REQUEST TO ALL INSURERS DEEMED NECESSARY BY THE SUPER-
2 INTENDENT IN ORDER TO SUCCESSFULLY RESPOND TO THE CONSUMER'S REQUEST;
3 AND
4 (II) INFORM THE REQUESTOR IN WRITING THAT THE REQUEST HAS BEEN
5 RECEIVED AND FORWARDED TO ALL INSURERS DEEMED NECESSARY BY THE SUPER-
6 INTENDENT IN ORDER TO SUCCESSFULLY RESPOND TO THE REQUEST.
7 (3) UPON RECEIVING A REQUEST FORWARDED BY THE SUPERINTENDENT THROUGH A
8 LOST POLICY FINDER APPLICATION, EVERY INSURER SHALL SEARCH FOR POLICIES
9 AND ANY ACCOUNTS SUBJECT TO THIS SECTION THAT INSURE THE LIFE OF, OR ARE
10 OWNED BY, AN INDIVIDUAL NAMED AS THE DECEDENT IN THE REQUEST FORWARDED
11 BY THE SUPERINTENDENT.
12 (4) WITHIN THIRTY DAYS OF RECEIVING THE REQUEST REFERENCED IN PARA-
13 GRAPH TWO OF THIS SUBSECTION, THE INSURER SHALL:
14 (I) REPORT TO THE SUPERINTENDENT THROUGH THE LOST POLICY FINDER THE
15 FINDINGS OF THE SEARCH CONDUCTED PURSUANT TO PARAGRAPH THREE OF THIS
16 SUBSECTION;
17 (II) FOR EACH IDENTIFIED POLICY AND ACCOUNT INSURING THE LIFE OF, OR
18 OWNED BY, THE NAMED INSURED, PROVIDE TO A REQUESTOR WHO IS ALSO THE
19 BENEFICIARY OF RECORD ON THE IDENTIFIED POLICY OR ACCOUNT THE INFORMA-
20 TION NECESSARY TO MAKE A CLAIM PURSUANT TO THE TERMS OF THE POLICY OR
21 ACCOUNT;
22 (III) FOR EACH IDENTIFIED POLICY AND ACCOUNT INSURING THE LIFE OF, OR
23 OWNED BY, THE NAMED INSURED, PROVIDE TO A REQUESTOR WHO IS NOT THE BENE-
24 FICIARY OF RECORD ON THE IDENTIFIED POLICY OR ACCOUNT THE REQUESTED
25 INFORMATION TO THE EXTENT PERMISSIBLE TO BE DISCLOSED IN ACCORDANCE WITH
26 ANY APPLICABLE LAW, RULE, AND REGULATION AND TO TAKE SUCH OTHER STEPS
27 NECESSARY TO FACILITATE THE PAYMENT OF ANY BENEFIT THAT MAY BE DUE UNDER
28 THE IDENTIFIED POLICY OR ACCOUNT; AND
29 (5) THE SUPERINTENDENT SHALL, WITHIN THIRTY DAYS OF RECEIVING FROM ALL
30 INSURERS THE INFORMATION REQUIRED IN SUBPARAGRAPH (I) OF PARAGRAPH FOUR
31 OF THIS SUBSECTION, INFORM THE REQUESTOR OF THE RESULTS OF THE SEARCH.
32 (6) WHEN A BENEFICIARY IDENTIFIED IN PARAGRAPH FOUR OF THIS SUBSECTION
33 SUBMITS A CLAIM OR CLAIMS TO AN INSURER, THE INSURER SHALL PROCESS SUCH
34 CLAIMS AND MAKE PROMPT PAYMENTS AND DISTRIBUTIONS IN ACCORDANCE WITH ALL
35 APPLICABLE LAWS, RULES, AND REGULATIONS.
36 (7) WITHIN THIRTY DAYS OF THE FINAL DISPOSITION OF THE REQUEST, THE
37 INSURER SHALL REPORT TO THE SUPERINTENDENT THROUGH THE LOST POLICY
38 FINDER ANY BENEFITS PAID AND ANY OTHER INFORMATION REQUESTED BY THE
39 SUPERINTENDENT.
40 (8) EVERY INSURER SHALL ESTABLISH PROCEDURES TO ELECTRONICALLY RECEIVE
41 THE LOST POLICY FINDER APPLICATION REQUEST FROM, AND MAKE REPORTS TO,
42 THE SUPERINTENDENT AS PROVIDED FOR IN THIS SECTION. WHEN TRANSMITTED
43 ELECTRONICALLY, THE DATE THAT THE SUPERINTENDENT FORWARDS THE REQUEST
44 SHALL BE DEEMED TO BE THE DATE OF RECEIPT BY THE INSURER UNLESS THE DAY
45 IS A SATURDAY, SUNDAY OR A PUBLIC HOLIDAY, AS DEFINED IN SECTION TWEN-
46 TY-FIVE OF THE GENERAL CONSTRUCTION LAW AND, IN SUCH CASE, THE DATE OF
47 RECEIPT SHALL BE AS PROVIDED IN SECTION TWENTY-FIVE-A OF THE GENERAL
48 CONSTRUCTION LAW. THE SUPERINTENDENT MAY PROMULGATE RULES AND REGU-
49 LATIONS THAT ALLOW AN INSURER TO APPLY FOR AN EXEMPTION FROM THE
50 REQUIREMENT THAT IT ELECTRONICALLY RECEIVE THE LOST POLICY FINDER APPLI-
51 CATION REQUEST.
52 (I) REPORTS. EVERY INSURER SUBJECT TO THIS SECTION SHALL INCLUDE IN
53 THE REPORT REQUIRED UNDER SECTION SEVEN HUNDRED THREE OF THE ABANDONED
54 PROPERTY LAW ANY INFORMATION ON UNCLAIMED BENEFITS DUE PURSUANT TO THIS
55 SECTION THE NUMBER OF POLICIES AND ACCOUNTS THAT THE INSURER HAS IDENTI-
56 FIED PURSUANT TO THIS SECTION FOR THE PRIOR CALENDAR YEAR UNDER WHICH

1 ANY OUTSTANDING MONIES HAVE NOT BEEN PAID OR DISTRIBUTED BY DECEMBER
2 THIRTY-FIRST OF SUCH YEAR EXCEPT POTENTIAL MATCHES STILL BEING INVESTI-
3 GATED PURSUANT TO PARAGRAPH ONE OF SUBSECTION (F) OF THIS SECTION. A
4 COPY OF THE REPORT SHALL ALSO BE FILED WITH THE SUPERINTENDENT.

5 (J) THE SUPERINTENDENT IS AUTHORIZED TO PROMULGATE ANY RULES AND REGU-
6 LATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION IN ACCORD-
7 ANCE WITH THE PROVISIONS OF THE STATE ADMINISTRATIVE PROCEDURE ACT.

8 S 2. This act shall take effect on the one hundred eightieth day after
9 it shall have become a law.