

# HB0168S01 compared with HB0168

~~text~~ shows text that was in HB0168 but was deleted in HB0168S01.

text shows text that was not in HB0168 but was inserted into HB0168S01.

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Representative James A. Dunnigan proposes the following substitute bill:

## UNCLAIMED LIFE INSURANCE AND ANNUITY BENEFITS

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: James A. Dunnigan**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill modifies the Insurance Code to address life insurance and annuity benefits.

#### Highlighted Provisions:

This bill:

- ▶ enacts the Unclaimed Life Insurance and Annuity Benefits Act, including:
  - defining terms; and
  - imposing requirements on insurers related to life insurance, annuities, and retained asset accounts.

#### Money Appropriated in this Bill:

None

#### Other Special Clauses:

This bill provides a special effective date.

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### Utah Code Sections Affected:

ENACTS:

**31A-22-1901**, Utah Code Annotated 1953

**31A-22-1902**, Utah Code Annotated 1953

**31A-22-1903**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **31A-22-1901** is enacted to read:

#### **Part 19. Unclaimed Life Insurance and Annuity Benefits Act**

##### **31A-22-1901. Title.**

This part is known as the "Unclaimed Life Insurance and Annuity Benefits Act."

Section 2. Section **31A-22-1902** is enacted to read:

##### **31A-22-1902. Definitions.**

As used in this part:

(1) "Administrator" means the same as that term is defined in Section 67-4a-102.

(2) "Asymmetric conduct" means an insurer's use of the death master file or other similar database before July 1, 2015, in connection with searching for information regarding whether annuitants under the insurer's annuities might be deceased, but not in connection with whether the insureds under the insurer's policies might be deceased.

(~~2~~3) (a) "Contract" means an annuity contract.

(b) "Contract" does not include an annuity used to fund an employment-based retirement plan or program when:

(i) the insurer does not perform the record keeping services; or

(ii) the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

(~~3~~4) "Death master file" means the United States Social Security Administration's Death Master File or another database or service that is at least as comprehensive as the United States Social Security Administration's Death Master File for determining that a person has reportedly died.

(~~4~~5) "Death master file match" means a search of a death master file that results in a match of the Social Security number, or the name and date of birth of an insured, annuity

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owner, or retained asset account holder.

(~~5~~6) "Knowledge of death" means:

(a) receipt of an original or valid copy of a certified death certificate; or

(b) a death master file match validated by the insurer in accordance with Subsection 31A-22-1903(1)(a).

(~~6~~7) (a) "Policy" means a policy or certificate of life insurance ~~issued on or after July 1, 2015,~~ that provides a death benefit.

(b) "Policy" does not include:

(i) a policy or certificate of life insurance that provides a death benefit under an employee benefit plan:

(A) subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1002, as periodically amended; or

(B) under any federal employee benefit program;

(ii) a policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement;

(iii) a policy or certificate of credit life or accidental death insurance; or

(iv) a policy issued to a group master policyholder for which the insurer does not provide record keeping services.

(~~7~~8) "Record keeping services" means those circumstances under which the insurer agrees 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 under the group insurance contract, at least the following information:

(a) Social Security number, or name and date of birth;

(b) beneficiary designation information;

(c) coverage eligibility;

(d) benefit amount; and

(e) premium payment status.

(~~8~~9) "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 by depositing the proceeds into an account with check or draft writing

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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.

Section 3. Section **31A-22-1903** is enacted to read:

### **31A-22-1903. Insurer conduct.**

(1) An insurer shall perform a comparison of its insureds' in-force policies, contracts, and retained asset accounts against a death master file, on at least a semi-annual basis, by using the full death master file once and thereafter using the death master file update files for future comparisons to identify potential matches of its insureds. For those potential matches identified as a result of a death master file match:

(a) The insurer shall within 90 days of a death master file match:

(i) complete a good faith effort, that the insurer documents, to confirm the death of the insured or retained asset account holder against other available records and information; and

(ii) determine whether benefits are due in accordance with the applicable policy or contract, and if benefits are due in accordance with the applicable policy or contract:

(A) use good faith efforts, that the insurer documents, to locate the beneficiary or beneficiaries; and

(B) provide the appropriate claims 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 or contract.

(b) With respect to group life insurance, an insurer shall confirm the possible death of an insured when the insurer maintains at least the following information of those covered under a policy or certificate:

(i) Social Security number, or name and date of birth;

(ii) beneficiary designation information;

(iii) coverage eligibility;

(iv) benefit amount; and

(v) premium payment status.

(c) An insurer shall implement procedures to account for:

(i) 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;

(ii) compound last names, hyphens, and blank spaces or apostrophes in last names; and

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(iii) transposition of the "month" and "date" portions of the date of birth.

(d) To the extent permitted by law, the insurer may 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.

(2) (a) An insurer that has not engaged in asymmetric conduct before July 1, 2015, is not required to comply with the requirements of this section with respect to a policy, annuity, or retained asset account issued or delivered before July 1, 2015.

(b) Notwithstanding Subsection (2)(a), an insurer, regardless of whether it has engaged in asymmetric conduct, shall comply with the requirements of this section for a policy, annuity, or retained asset account issued on or after July 1, 2015.

(~~2~~3) An insurer or the insurer's service provider may not charge a beneficiary or other authorized representative for fees or costs associated with a death master file search or verification of a death master file match conducted pursuant to this section.

(~~3~~4) The benefits from a policy, contract, or ~~a~~ retained asset account, plus any applicable accrued contractual interest shall first be payable to the designated beneficiaries or owners and in the event said beneficiaries or owners can not be found, shall ~~escheat~~be transferred to the state as unclaimed property pursuant to Section 67-4a-205. Interest payable under Section 31A-22-428 may not be payable as unclaimed property under Section 67-4a-205.

(~~4~~5) An insurer shall notify the administrator upon the expiration of the statutory ~~time~~holding period ~~for escheat~~under Section 67-4a-205 that:

(a) a policy, contract beneficiary, or retained asset account holder has not submitted a claim with the insurer; and

(b) the insurer has complied with Subsection (1) and has been unable, after good faith efforts documented by the insurer, to contact the retained asset account holder, beneficiary, or beneficiaries.

(~~5~~6) Upon such notice, an insurer shall immediately submit the unclaimed policy or contract benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the administrator.

Section 4. **Effective date.**

This bill takes effect on July 1, 2015.

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**Legislative Review Note**

~~as of 1-22-15 4:13 PM~~

~~Office of Legislative Research and General Counsel~~