

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 561  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Life insurers pay out \$7.9 million a day in benefits in Texas and \$1.6 billion a day nationally. In the normal course of business, 99 percent of life insurance benefits are paid as a response to a claim made by the beneficiary after the death of the insured. Thus, unclaimed life insurance benefits represent a very small percentage of total claims paid. Life insurers operating in Texas and throughout the nation know those percentages represent real people who deserve the benefits that are meant for them.

Historically, if beneficiaries to a life insurance policy do not make a claim on the policy, those unpaid claims remained with the insurance company until either a claim is eventually made or until the insured reaches his or her "limiting age," usually age 107, per the insurance company's records. If attempts to contact beneficiaries were unsuccessful, insurers pay proceeds to the state as unclaimed property. Many companies are using new technology, such as using the Social Security Death Master File, to take proactive measures to determine if an insured has died and then using technology to locate missing beneficiaries.

This bill amends Chapter 1109, Texas Insurance Code, and requires life insurance companies to match the Death Master File against their life insurance customer records every six months. In the event of a match, insurers are required to conduct outreach to insureds or their beneficiaries within 90 days to assist beneficiaries with making a claim. Further, the bill distinguishes between product lines for which Death Master File searches are appropriate and those for which such searches are unnecessary or inefficient.

The bill provides life insurers with operational uniformity and consistency among the states, which allows insurers to more efficiently perform Death Master File searches, identify matches, and act affirmatively to locate beneficiaries and assist them with the claims process.

Twenty-four other states have enacted similar legislation.

As proposed, S.B. 561 amends current law relating to the identification and handling of unclaimed life insurance and annuity contract proceeds.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 1109.014, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 1109, Insurance Code, by adding Subchapter A-1 as follows:

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

Sec. 1109.010. DEFINITIONS. Defines "annuity contract," "Death Master File," "Death Master File match," "life insurance policy," "recordkeeping services," and "retained asset account."

Sec. 1109.011. IDENTIFICATION OF DEATH MASTER FILE MATCHES. (a) Requires an insurer to 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. Requires the 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.

(b) Requires an insurer to 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) Requires an insurer to 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) Provides that 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 preceding the Death Master File comparison.

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

(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) 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 this section only if the insurer provides recordkeeping services for the group policy or group annuity contract.

(c) Requires the insurer, 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, to:

(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) 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.

(e) 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.

(f) Prohibits an insurer or the insured'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 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) Provides that 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) Provides 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 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) Requires an insurer to report unclaimed proceeds as required by Section 1109.051 (Company Report of Unclaimed Proceeds).

(d) Requires an insurer to deliver unclaimed proceeds to the Texas comptroller of public accounts as required by Section 1109.052 (Delivery of Proceeds to Comptroller).

(e) Provides that, for the purposes of this section, unclaimed proceeds do not include any accrued contractual interest.

Sec. 1109.014. RULEMAKING AUTHORITY. Authorizes the commissioner of insurance (commissioner) to adopt rules to implement this subchapter.

Sec. 1109.015. AUTHORITY TO ISSUE CERTAIN ORDERS. Authorizes the commissioner to issue an order:

(1) limiting the Death Master File comparisons required by this subchapter 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;

(2) exempting an insurer from the Death Master File comparisons required by this subchapter or permitting an insurer to perform the comparisons less frequently than required by this subchapter on a showing of hardship to the insurer; or

(3) permitting an insurer to phase in compliance with this subchapter according to a plan and timeline approved by the commissioner.

Sec. 1109.016. **AUTHORITY TO REQUEST DEATH CERTIFICATE.** Provides that nothing in this subchapter limits an insurer's right to request a death certificate as part of a claim validation process.

Sec. 1109.017. **APPLICATION WITH OTHER LAW; CONFLICTS.** Provides that this subchapter applies to proceeds in addition to the other provisions of this chapter and the provisions of Chapter 74 (Report, Delivery, and Claims Process), Property Code. Provides that in the event of a conflict between this subchapter and one of those provisions, this subchapter prevails.

SECTION 2. Makes application of this Act prospective to January 1, 2018.

SECTION 3. Effective date: September 1, 2017.