

New Jersey Enacts Unclaimed Life Insurance Benefits Law

FINANCIAL SERVICES REGULATORY | LIFE, ANNUITY, AND RETIREMENT SOLUTIONS | SEPTEMBER 26, 2017



Steven Kass

On September 13, New Jersey became the latest state to enact legislation governing unclaimed life insurance benefits. Gov. Chris Christie (R) signed New Jersey Assembly Bill 2511 into law as P.L.2017, s.236 (the “Act”), which is based generally on the NCOIL Model Unclaimed Life Insurance Benefits Act (the “NCOIL Model”) and is set to take effect March 1, 2018.

The Act generally follows the NCOIL Model in that it requires life insurers to cross-check every life insurance policy, annuity contract, and retained asset account (RAA) subject to the law on at least a semi-annual basis with the Social Security Administration’s Death Master File (DMF) or other comprehensive database acceptable to the Commissioner of Banking and Insurance (“Commissioner”). It allows the semi-annual cross-check to use updates to the DMF since the date of the last cross-check so long as the insurer performs a cross-check using the entire DMF at least once. It further requires insurers to have procedures to address common variations in data that might prevent a match from being identified, to have procedures to confirm the death and locate beneficiaries within 90 days after the identification of a potential match, and to make good faith efforts to locate beneficiaries.

The Act does, however, contain some significant differences from the NCOIL Model:

- The NCOIL Model requires DMF comparisons of an insurer’s *in-force* life insurance policies, annuity contracts, and RAAs, while the Act is narrower, defining the term “policy” as a life insurance policy and annuity contract “**issued on or after the effective date of [the Act].**” Likewise, the Act applies only to RAAs established under or as a result of a “policy.”
- In the event an insurer receives notice of the death of an insured or a DMF cross-check produces a match, the Act requires insurers to search every policy or RAA subject to the law to determine whether the insurer has any other policies or accounts for the deceased insured.
- The Act allows the Commissioner to promulgate rules and regulations allowing cross-checks less frequently than semi-annually.
- The Act applies only to policies, annuity contracts, or RAAs established under or as a result of those policies that were “issued by a domestic insurer” in New Jersey or were “delivered or issued for delivery in New Jersey by an authorized foreign insurer.”
- The NCOIL Model and the Act both limit the Act’s applicability by excluding ERISA policies, preneed funeral policies, credit life or accidental death insurance, and group policies for which the insurer does not provide record keeping services from their respective requirements. The Act goes further and allows the Commissioner to add further exclusions limiting the Act’s applicability for “any other circumstance [the Commissioner] determine[s] to be appropriate.”
- The Act does not contain the NCOIL Model’s escheat carve out for statutory interest.

New Jersey’s adoption of the Act comes at a time of significant movement in the adoption of state unclaimed life insurance benefits laws. The NCOIL Model Act continues to gain steam with enactments in Maine, Nebraska, and Texas over the last few months such that a version of the NCOIL Model is now law in a majority of states. Additionally, state legislators in a variety of states including Hawaii, Louisiana, Massachusetts, Oklahoma, and Wisconsin have proposed versions of the NCOIL Model in recent legislative sessions.

The momentum of the NCOIL Model and the general trend of state-based adoptions of laws addressing unclaimed life insurance benefits were leading factors in the halt this summer of the National Association of Insurance Commissioner (NAIC)’s efforts to promulgate its own Unclaimed Life Insurance and Annuities Model Act. On August 7, the NAIC’s Life

Insurance and Annuities (A) Committee voted to disband the Unclaimed Life Insurance Benefits (A) Working Group, ending the NAIC's efforts to draft an NAIC model. While the vote marked the official end of the NAIC's efforts on this issue, it was merely the formal recognition of that end following struggles over the past year by the working group to reach consensus on their model's retroactivity provisions, among other disagreements.

©2019 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.