



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 10, 2018

GOV. MSG. NO. 1311

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 10, 2018, the following bill was signed into law:

SB208 SD2 HD1 CD1

RELATING TO UNCLAIMED LIFE INSURANCE
BENEFITS
ACT 202 (18)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO UNCLAIMED LIFE INSURANCE BENEFITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding a new part to article 10D to be appropriately
3 designated and to read as follows:

4 "PART . UNCLAIMED LIFE INSURANCE BENEFITS ACT

5 §431:10D-A Short title. This part may be known and cited
6 as the Unclaimed Life Insurance Benefits Act.

7 §431:10D-B Purpose. The purpose of this part is to
8 require recognition of the escheat or unclaimed property
9 statutes of this State and require the complete and proper
10 disclosure, transparency, and accountability relating to any
11 method of payment for life insurance death benefits regulated by
12 the State's insurance commissioner.

13 §431:10D-C Definitions. As used in this part, the
14 following definitions apply:

15 "Contract" means an annuity contract; provided that the
16 term "contract" shall not include an annuity used to fund an
17 employment-based retirement plan or program where:



1 (1) The insurer does not perform the record keeping
2 services; or

3 (2) The insurer is not committed by terms of the annuity
4 contract to pay death benefits to the beneficiaries of
5 specific plan participants.

6 "Death master file" means the United States Social Security
7 Administration's death master file or any other database or
8 service that is at least as comprehensive as the United States
9 Social Security Administration's death master file for
10 determining that a person has reportedly died.

11 "Death master file match" means a search of the death
12 master file that results in a match of the social security
13 number or the name and date of birth of an insured, annuity
14 owner, or retained asset account holder.

15 "Knowledge of death" means:

16 (1) Receipt of an original or valid copy of a certified
17 death certificate; or

18 (2) A death master file match validated by the insurer in
19 accordance with section 431:10D-D(a) (1) (A).



1 "Policy" means any policy or certificate of life insurance
2 that provides a death benefit; provided that the term "policy"
3 shall not include:

4 (1) Any policy or certificate of life insurance that
5 provides a death benefit under an employee benefit
6 plan:

7 (A) Subject to the federal Employee Retirement Income
8 Security Act of 1974 (29 U.S.C. 1001, et. seq.),
9 as periodically amended; or

10 (B) Under any federal employee benefit program;

11 (2) Any policy or certificate of life insurance that is
12 used to fund a pre-need funeral contract or
13 prearrangement;

14 (3) Any policy or certificate of credit life or accidental
15 death insurance; or

16 (4) Any policy issued to a group master policyholder for
17 which the insurer does not provide record keeping
18 services.

19 "Record keeping services" means those circumstances under
20 which the insurer has agreed with a group policy or contract
21 customer to be responsible for obtaining, maintaining, and



1 administering in its own or its agents' systems information
2 about each individual insured under an insured's group insurance
3 contract, or a line of coverage thereunder, at least the
4 following information:

- 5 (1) Social security number or name and date of birth;
- 6 (2) Beneficiary designation information;
- 7 (3) Coverage eligibility;
- 8 (4) Benefit amount; and
- 9 (5) Premium payment status.

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

17 **§431:10D-D Insurer conduct.** (a) An insurer shall perform
18 a comparison of its insureds' in-force policies, contracts, and
19 retained asset accounts against a death master file, on at least
20 a semi-annual basis, by using the full death master file once
21 and thereafter using the death master file update files for



1 future comparisons to identify potential matches of its
2 insureds. For those potential matches identified as a result of
3 a death master file match:

4 (1) The insurer shall, within ninety days of a death
5 master file match:

6 (A) Complete a good faith effort, which shall be
7 documented by the insurer, to confirm the death
8 of the insured or retained asset account holder
9 against other available records and information;

10 (B) Determine whether benefits are due in accordance
11 with the applicable policy or contract; provided
12 that if benefits are due in accordance with the
13 applicable policy or contract:

14 (i) Use good faith efforts, which shall be
15 documented by the insurer, to locate the
16 beneficiary or beneficiaries; and

17 (ii) Provide the appropriate claims forms or
18 instructions to the beneficiary or
19 beneficiaries to make a claim, including the
20 need to provide an official death



1 certificate, if applicable under the policy
2 or contract;

3 (2) With respect to group life insurance, insurers shall
4 confirm the possible death of an insured when the
5 insurers maintain at least the following information
6 of those covered under a policy or certificate:

- 7 (A) Social security number or name and date of birth;
- 8 (B) Beneficiary designation information;
- 9 (C) Coverage eligibility;
- 10 (D) Benefit amount; and
- 11 (E) Premium payment status;

12 (3) Every insurer shall implement procedures to account
13 for the following:

- 14 (A) Common nicknames, initials used in lieu of a
15 first or middle name, use of a middle name,
16 compound first and middle names, and interchanged
17 first and middle names;
- 18 (B) Compound last names, maiden or married names, and
19 hyphens, blank spaces, or apostrophes in last
20 names;



- 1 (C) Transposition of the month and date portions of
2 the date of birth; and
- 3 (D) Incomplete social security number;
- 4 (4) To the extent permitted by law, the insurer may
5 disclose minimum necessary personal information about
6 the insured or beneficiary to a person who the insurer
7 reasonably believes may be able to assist the insurer
8 with locating the beneficiary or a person otherwise
9 entitled to payment of the claim proceeds; and
- 10 (5) The insurer comparison of in-force policies,
11 contracts, and retained asset accounts shall be
12 conducted first to the extent that such records are
13 available electronically and then using the most
14 easily accessible insurer records for records that are
15 not available electronically.
- 16 Nothing in this subsection shall limit the insurer from
17 requesting a valid death certificate as part of any claims
18 validation process.
- 19 (b) An insurer or its service provider shall not charge
20 any beneficiary or other authorized representative for any fees
21 or costs associated with a death master file search or



1 verification of a death master file match conducted pursuant to
2 this section.

3 (c) The benefits from a policy, contract, or retained
4 asset account, plus any applicable accrued contractual interest,
5 shall first be payable to the designated beneficiaries or owners
6 and in the event said beneficiaries or owners cannot be found,
7 shall escheat to the State as unclaimed property pursuant to
8 chapter 523A. Interest payable under section 431:10-243 shall
9 not be payable as unclaimed property under chapter 523A.

10 (d) An insurer shall notify the director of finance upon
11 the expiration of the statutory time period for escheat that:

12 (1) A policy or contract beneficiary or retained asset
13 account holder has not submitted a claim with the
14 insurer; and

15 (2) The insurer has complied with subsection (a) and has
16 been unable, after good faith efforts documented by
17 the insurer, to contact the retained asset account
18 holder, beneficiary, or beneficiaries.

19 (e) The commissioner may adopt such rules and regulations
20 as may be reasonably necessary to implement the provisions of
21 this section.



1 (f) The commissioner may, in the commissioner's reasonable
2 discretion, make an order:

3 (1) Limiting an insurer's death master file comparisons
4 required under subsection (a) to the insurer's
5 electronic searchable files or approving a plan and
6 timeline for conversion of the insurer's files to
7 electronic searchable files;

8 (2) Exempting an insurer from the death master file
9 comparisons required under subsection (a) or
10 permitting an insurer to perform such comparisons less
11 frequently than semi-annually upon a demonstration of
12 hardship by the insurer; or

13 (3) Phasing-in compliance with this section according to a
14 plan and timeline approved by the commissioner.

15 (g) Failure to meet any requirement of this section with
16 such frequency as to constitute a general business practice
17 shall constitute an unfair or deceptive act or practice under
18 article 13. Nothing in this section shall be construed to
19 create or imply a private cause of action for a violation of
20 this section."



1 SECTION 2. In codifying the new sections added by section
2 1 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 3. This Act shall take effect upon its approval.

APPROVED this 10 day of JUL, 2018





GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI'I

Date: May 1, 2018
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the
Senate of the Twenty-ninth Legislature of the State of Hawai'i, Regular Session of 2018.


President of the Senate


Clerk of the Senate

SB No. 208, SD 2, HD 1, CD 1

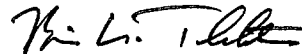
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 1, 2018
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2018.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives