

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 77

(Senator Kelley)

Finance

Health and Government Operations

---

**Life Insurance and Annuities - Unfair Claim Settlement Practices - Failure to Search Death Master File**

---

This bill requires an insurer that issues, delivers, or renews a life insurance policy or annuity contract in the State to perform good faith comparisons of the insurer's in-force life insurance policies, annuity contracts, and retained asset accounts at least semiannually against the most recent death master file in order to identify any death benefit payments that may be due as a result of the death of an insured, annuitant, or retained asset account holder. The Insurance Commissioner may adopt regulations to implement the bill's provisions. The failure of an insurer to comply with any of the bill's provisions or any of the Commissioner's regulations is an unfair claim settlement practice.

This bill takes effect October 1, 2013.

---

**Fiscal Summary**

**State Effect:** The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

---

**Analysis**

**Bill Summary:** The bill defines "death master file" as the Social Security Administration's (SSA) Death Master File or any other database or service that is at least

as comprehensive as the SSA's Death Master File for determining that an individual reportedly has died.

“Death Master File Match” means a match, resulting from a search of a death master file, of a Social Security number or a name and date of birth of an individual on the death master file with the Social Security number or the name and date of birth of an insured, annuitant, or retained asset account holder.

The bill defines “preneed insurance contract” as a life insurance policy or certificate, annuity contract, or other insurance contract that, by assignment or otherwise, has as a purpose the funding of an agreement relating to the purchase or provision of specific funeral or cemetery merchandise or services to be provided at the time of death of an individual.

The bill does not apply to (1) a specified annuity contract; (2) a policy or certificate of life insurance that provides a specified death benefit; (3) a preneed insurance contract; (4) a policy or certificate of credit life insurance; or (5) a policy or certificate of accidental death and dismemberment insurance. An insurer of a group life insurance policy is not required to perform a comparison unless the insurer provides full recordkeeping services to the group life insurance policyholder.

If an insurer's comparison has identified a death master file match with an insured, annuitant, or retained asset account holder, the insurer must, within 90 days after the comparison, conduct a good faith effort to confirm the death using other available records and information; determine whether benefits are due under the applicable policy, contract, or retained asset account; and, if applicable, conduct a good faith effort to locate any beneficiary and provide the beneficiary with the appropriate claims forms and instructions. An insurer must document these good faith efforts. An insurer may, to the extent permitted by law, disclose the minimum necessary personal information about an insured, an annuitant, a retained asset account holder, or a beneficiary to a person that the insurer reasonably believes may be able to assist the insurer in locating a beneficiary.

An insurer may not charge an insured, an annuitant, a retained asset account holder, a beneficiary, or any other person for any fees or costs incurred with performing the comparison or the subsequent required efforts in the event of a match.

**Current Law:** There is no current requirement for insurers to review the death master file in order to determine whether an insured, annuitant, or retained asset account holder is deceased.

However, it is an unfair claim settlement practice for an insurer, nonprofit health service plan, or health maintenance organization to fail to adopt and implement reasonable standards for the prompt investigation of claims that arise under policies.

If the Maryland Insurance Administration (MIA) determines that an unfair claim settlement practice provision has been violated, it may order restitution of up to the amount of actual damages, subject to the policy's limits. MIA may impose a penalty of up to \$2,500 for each violation of the unfair claim settlement practices provisions and issue a cease and desist order.

**Background:** SSA's Death Master File contains over 89 million records of deaths. Each record contains, if possible, the deceased's Social Security number, name, date of birth, date of death, state or country of last residence, zip code of last residence, and zip code of lump sum payment. However, SSA does not guarantee that the absence of a record ensures the person is alive or that the presence of a record is not included erroneously.

In response to concerns that state life insurers were using SSA's Death Master File to stop annuity payments once a contract holder dies rather than using the file to find beneficiaries who have yet to file a claim, the New York State Insurance Department (now the Department of Financial Services) sent a letter in July 2011 to each of the state's 172 life insurance companies requiring the insurers to immediately locate local beneficiaries of dead policyholders. Insurers were required to report to the state the results of their efforts to locate these beneficiaries.

According to the New York Department of Financial Services, the recipients of the July letter paid approximately \$52.6 million to beneficiaries since the start of the department's investigation into the practice.

**Small Business Effect:** The bill places an affirmative duty on insurers to perform regular, good faith comparisons of the insurers' life insurance policies, annuity contracts, and retained asset accounts against the most recent death master file. It is possible that this practice will cause small business life insurers to issue a greater number of death benefit payments. However, as noted above, insurers in Maryland are already required to adopt and implement reasonable standards for the prompt investigation of claims that arise under policies. Additionally, as the bill explicitly prohibits passing fees or other costs onto the beneficiary or another person, there may be increased administrative and personnel costs due to performing the comparisons and any subsequent efforts to administer a death benefit payment.

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Maryland Insurance Administration, New York State Department of Financial Services, National Conference of Insurance Legislators, National Technical Information Service, www.insurancequotes.com, Department of Legislative Services

**Fiscal Note History:** First Reader - January 24, 2012  
mlm/mwc Revised - Senate Third Reader - March 27, 2012  
Revised - Enrolled Bill - May 16, 2012

---

Analysis by: Michael F. Bender

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510