SB 217

Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 217 (Senator Kelley)
Finance Health and Government Operations

Life Insurance and Annuities - Retained Asset Accounts - Beneficiaries' Bill of Rights

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This bill requires insurers offering retained asset accounts as the mode of settlement of proceeds payable under a life insurance policy or annuity contract to offer at least one other mode of settlement of proceeds and make specified disclosures to the beneficiary, including (1) all the settlement options available under the policy or contract; (2) a recommendation to consult an advisor regarding tax liability and investment options; (3) an explanation of the features of the retained asset account; and (4) a statement reading “For further information, please contact your state insurance department.”

Violation of the bill is an unfair practice under Title 27 of the Insurance Article.

The bill applies to claims for death benefits under individual or group life insurance policies or annuity contracts issued, delivered, or renewed in the State on or after October 1, 2011.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues for cases heard in the District Court due to the bill’s imposition of existing penalty provisions. Enforcement can be handled with existing resources.

Local Effect: Potential minimal increase in revenues from cases heard in circuit courts due to the bill’s imposition of existing penalty provisions. No effect on expenditures.

Small Business Effect: None.

Analysis

Bill Summary: The bill defines a "retained asset account" as any mechanism whereby the settlement of proceeds payable under a life insurance policy or an annuity contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into a checking or draft account, where those proceeds are retained by the insurer in accordance with a supplementary contract.

An insurer is not required to provide the specified disclosures if (1) the insurer permits the beneficiary to file the claim over the telephone; (2) the insurer does not require the beneficiary to file a death certificate or other paperwork to file the claim for proceeds; and (3) the beneficiary selects payment of a lump-sum check, payable directly to the beneficiary, as the settlement option during the telephone call in which the beneficiary files the claim for proceeds.

Current Law: Retained asset accounts are regulated under the Code of Maryland Regulations (COMAR) provisions applicable to MIA. The COMAR provisions require that, if one of the settlement options an insurer offers is a restricted asset account, the insurer must disclose and describe in writing to the beneficiary all the settlement options available under the policy or contract. The insurer must also describe the features of the retained asset account. MIA advises that insurers are already required by COMAR to provide most of the consumer disclosures required by the bill. The following disclosures are not currently required by COMAR:

- the custodian of the funds or assets of the retained asset account;
- possible delays that the account holder may encounter in completing authorized transactions and the anticipated duration of the delays;
- a statement that the insurer or a related party may derive income, in addition to any fees charged on the retained asset account, from the total gains received on the investment of the balance of funds in the retained asset account; and
- the statement "For further information, please contact the Maryland Insurance Administration."

An unfair trade practice under Title 27 of the Insurance Article includes any misrepresentations about policies, false advertisements, false statements about insurers, specified discrimination, use of insurance as an inducement, and improper premiums and charges. If the Commissioner finds that a person in the State has engaged or is engaging in an act or practice defined as an unfair trade practice under Title 27, the Commissioner must issue a cease and desist order. A cease and desist order does not relieve any person affected by the order from any other liability, penalty, or forfeiture.

If the Commissioner believes that a person engaged in the insurance business is engaging in conduct in the State that, although not defined in Title 27, is an unfair method of competition or an unfair or deceptive act or practice, the Commissioner may call a hearing if in the public interest. The Commissioner, through the Attorney General, is responsible for enforcing Title 27 of the Insurance Article and may bring an action, after making a written report, to enjoin and restrain the person from engaging in the method of competition, act, or practice.

A person that willfully violates Title 27, including a violation of the cease and desist order, is guilty of a misdemeanor and subject to a fine of up to $100,000.

Background: Retained asset accounts offer beneficiaries flexibility to take the time to decide what to do with the proceeds of a life insurance policy while earning interest on the proceeds. However, it may be possible for beneficiaries to earn a higher rate of interest by selecting an alternate method of payout. Additionally, some insurers may charge administrative or maintenance fees for retained asset accounts and, if the account becomes inactive, it could escheat to a state unclaimed property fund. This bill is based on the National Conference of Insurance Legislators' Beneficiaries' Bill of Rights model law.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Maryland Insurance Administration, National Conference of Insurance Legislators, National Association of Insurance Commissioners, Comptroller's Office, Department of Legislative Services

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