

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Charitable Organization Beneficiary Act.

Section 5. Definitions. As used in this Act:

"Beneficiary designation" means the provision in an instrument designating a beneficiary, other than in a will or an instrument creating a trust, and may also mean the instrument itself, including, but not limited to, any of the following:

(1) a demand deposit, savings deposit, time deposit or other account or instrument on which the holder is directly liable with a designation for payment upon death or other nonprobate designation making it transferable on death;

(2) a security registered in beneficiary form; or

(3) a pension, profit-sharing plan, retirement account such as an IRA, 401(k), 403(b), or other employment-related benefit plan.

"Beneficiary designation" does not include designation of a beneficiary made as part of an annuity or an insurance policy.

"Charitable organization" means an entity that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

"Holder of property" means any entity that has possession of or is responsible for property subject to a beneficiary designation.

Section 10. Notice of death of owner of property. If the holder of the property has verified the death of the owner of the property, the holder of the property must, within 45 business days of the verification: provide notice to each charitable organization listed under the beneficiary designation that the charitable organization may have a right to the property; provide the charitable organization with the name of the owner of the property, contact information of the holder of the property; and provide a general description of the property held for the benefit of the charitable organization; and provide the exact language of the beneficiary designation, except that the names of any other beneficiaries that are not charitable organizations may be redacted.

Section 15. Charitable organization affidavit of interest in property.

(a) If a charitable organization is a beneficiary of an interest in property created by beneficiary designation, that

charitable organization may present an affidavit to the holder of the property or to any person with information about the property to obtain the property or information regarding the property. The affidavit must state all of the following:

(1) the decedent's name and last known address to the extent known;

(2) a general description of the property to the extent known;

(3) the charitable organization's name, address, and primary contact information;

(4) the charitable organization is a charitable organization;

(5) a request that the property be paid, delivered, or transferred to the charitable organization or that information about the property be given to the charitable organization;

(6) the charitable organization has a right to the interest in the property listed in the affidavit to the extent known;

(7) the affidavit has been signed by an authorized representative of the charitable organization under penalty of perjury before a notary public as provided in the Notary Public Act; and

(8) the information in the affidavit is true and correct to the best of the affiant's knowledge or belief.

(b) The affidavit must be accompanied by all of the

following:

(1) a copy of the charitable organization's determination letter from the Internal Revenue Service recognizing its tax-exempt status;

(2) a copy of the charitable organization's Certificate of Good Standing issued by the Secretary of State;

(3) a death certificate of the decedent, probate notice published by the personal representative of the decedent's estate, proof of payment of the decedent's funeral expenses, the decedent's obituary as verification of the decedent's death, or any other reliable source or record that verifies the decedent's death;

(4) a corporate resolution or similar statement of authority of the affiant to act on behalf of the charitable organization; and

(5) Internal Revenue Service Form W-9 completed by an authorized representative of the charitable organization.

Section 20. Duties of the holder of the property.

(a) Unless a court has ordered otherwise, the holder of the property may not do any of the following:

(1) require the charitable organization to establish an account with the holder of the property or otherwise become a customer of the holder of the property;

(2) require co-beneficiaries to submit claims

simultaneously or impose coordination deadlines among co-beneficiaries; or

(3) delay payment to any co-beneficiary if other co-beneficiaries have not submitted their claim documentation, except where a security registered in beneficiary form is not readily divisible among multiple beneficiaries and a co-beneficiary has not waived the co-beneficiary's right to a partial share. In such a case, the holder of the property and the charitable organization shall make reasonable efforts to resolve divisibility concerns.

(b) The holder of the property may not request any additional personal information from any individual employed by or serving on the board of the charitable organization, including, but not limited to, any of the following:

- (1) social security number;
- (2) personal contact information, including home address;
- (3) personal financial information;
- (4) date of birth;
- (5) annual income;
- (6) value of personal assets;
- (7) credit checks;
- (8) criminal background checks;
- (9) marital status;
- (10) number of dependents;

(11) spouse's maiden name; or

(12) government-issued identification card, such as a passport, state identification card, or driver's license, provided that if an individual delivers or presents an affidavit under Section 15 for the purpose of claiming or receiving property, the holder of the property may request presentation of an unexpired government-issued identification bearing a photograph or similar safeguard solely to verify the identity of the individual presenting the affidavit and the individual's authority to act on behalf of the charitable organization.

(c) Nothing in this Section prohibits a charitable organization from affirmatively requesting the establishment of a new account with the holder of the property; only upon such affirmative request may the holder of the property require the minimum necessary information contained in subsection (b) and as required by federal law or regulation and the holder's internal account opening policies and procedures to facilitate account establishment.

(d) If the holder of property maintains it is prohibited from paying, delivering, or transferring the property listed under a beneficiary designation to a charitable organization in compliance with this Act due to requirements under federal law, the holder of the property shall:

(1) explain in writing the reason why the property cannot be paid, delivered, or transferred to the

charitable organization; and

(2) make good faith efforts in order to facilitate payment, delivery, or transfer of the property in compliance with this Act.

(e) Nothing in this Act alters the responsibilities or duties of the beneficiary or holder of the property under the Revised Uniform Unclaimed Property Act or the Illinois Trust and Payable on Death Accounts Act or federal law or regulation.

Section 25. Transfer of property. If the requirements of this Act are satisfied by a charitable organization, and there are no conflicting claims to the same shares or portion of a property, the holder of the property must do either or both of the following within 60 business days:

(1) pay, deliver, or transfer the property to or for the benefit of the charitable organization if the affidavit has requested the transfer, payment, or delivery of the property to the charitable organization, complying with the charitable organization's preference as to whether the property is paid, delivered, or transferred, to the extent that complying with such preference is reasonably practicable for the holder; or

(2) deliver the information requested in the affidavit to the charitable organization.

Section 30. Good faith reliance on information given to the holder. The holder of the property and any person who in good faith delivers the property or information requested in reliance on the information a charitable organization provides under this Act, who has no knowledge that representations contained in the affidavit are incorrect, is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the affidavit.

Section 35. Release. Any payments, deliveries, or transfers made by the holder of property in compliance with this Act prior to the receipt of notice of an adverse claim or a restraining order shall be a complete discharge of the holder of property's obligations as to the payment, delivery, or transfer, and the holder of property shall, to the extent of each such payment, delivery, or transfer, be released from all claims of any person, charitable organization, or entity claiming an interest in the property for such payment, delivery, or transfer so made.

Section 40. Failure or refusal of holder of the property to act. If the holder of the property fails or refuses to provide the requested property or information within 60 business days after receiving the affidavit, the charitable organization may bring an action against the holder of the property to receive the information about the property or

recover the property or compel the delivery of the property. An action brought under this Act must be brought within one year after the date of the act or failure to act. If the court finds that the holder of the property acted unreasonably in failing to provide the requested information or to pay, deliver, or transfer the property in compliance with this Act, the court may award to the charitable organization any or all of the following:

(1) immediate delivery of the requested information or delivery or recovery of the property or value of the property;

(2) damages sustained by the charitable organization;

(3) costs of the action;

(4) a penalty in an amount determined by the court up to \$10,000 only if the court finds that the holder of the property engaged in bad faith or willful misconduct; or

(5) reasonable attorney's fees based on the time expended by the attorney to obtain the requested information or payment, delivery, or transfer of the property without regard to the amount of the recovery on behalf of the charitable organization.

Section 45. The Illinois Insurance Code is amended by changing Section 224 as follows:

(215 ILCS 5/224) (from Ch. 73, par. 836)

Sec. 224. Standard provisions for life policies.

(1) After the first day of July, 1937, no policy of life insurance other than industrial, group or annuities and pure endowments with or without return of premiums or of premiums and interest, may be issued or delivered in this State, unless such policy contains in substance the following provisions:

(a) A provision that all premiums after the first shall be payable in advance either at the home office of the company or to an agent of the company, upon delivery of a receipt signed by one or more of the officers who shall be designated in the policy, when such receipt is requested by the policyholder.

(b) A provision that the insured is entitled to a grace period either of 30 days or of one month within which the payment of any premium after the first may be made, subject at the option of the company to an interest charge not in excess of 6% per annum for the number of days of grace elapsing before the payment of the premium, during which period of grace the policy shall continue in force, but in case the policy becomes a claim during the grace period before the overdue premium is paid, or the deferred premiums of the current policy year, if any, are paid, the amount of such premium or premiums with interest thereon may be deducted in any settlement under the policy.

(c) A provision that the policy, together with the application therefor, a copy of which shall be endorsed

upon or attached to the policy and made a part thereof, shall constitute the entire contract between the parties and that after it has been in force during the lifetime of the insured a specified time, not later than 2 years from its date, it shall be incontestable except for nonpayment of premiums and except at the option of the company, with respect to provisions relative to benefits in the event of total and permanent disability, and provisions which grant additional insurance specifically against death by accident and except for violations of the conditions of the policy relating to naval or military service in time of war or for violation of an express condition, if any, relating to aviation, (except riding as a fare-paying passenger of a commercial air line flying on regularly scheduled routes between definitely established airports) in which case the liability of the company shall be fixed at a definitely determined amount not less than the full reserve for the policy and any dividend additions; provided that the application therefor need not be attached to or made a part of any policy containing a clause making the policy incontestable from date of issue.

(d) A provision that if it is found at any time before final settlement under the policy that the age of the insured (or the age of the beneficiary, if considered in determining the premium) has been misstated, the amount payable under the policy shall be such as the premium

would have purchased at the correct age or ages, according to the company's published rate at date of issue.

(e) A provision that the policy shall participate annually in the surplus of the company beginning not later than the end of the third policy year; and any policy containing a provision for annual participation beginning at the end of the first policy year, may also provide that each dividend be paid subject to the payment of the premiums for the next ensuing year; and the insured under any annual dividend policy shall have the right each year to have the dividend arising from such participation either paid in cash, or applied in reduction of premiums, or applied to the purchase of paid-up additional insurance, or be left to accumulate to the credit of the policy, with interest at such rate as may be determined from time to time by the company, but not less than a guaranteed minimum rate specified in the policy, and payable at the maturity of the policy, but withdrawable on any anniversary date, subject to such further provisions as the policy may provide regarding the application of dividends toward the payment of any premiums unpaid at the end of the grace period; and if the insured fails to notify the company in writing of his election within the period of grace allowed for the payment of premium, the policy shall further provide which of such options are effective.

(f) A provision that after the policy has been in

force 3 full years the company at any time, while the policy is in force, will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a specified maximum fixed or adjusted rate of interest in accordance with Section 229.5, a sum equal to, or at the option of the insured less than the amount required by Section 229.3 under the conditions specified thereby and with notification as required by Section 229.5; and that the company will deduct from such loan value any indebtedness not already deducted in determining such value and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year; and any policy may also provide that if the interest on the loan is not paid when due it shall be added to the existing loan and shall bear interest at the same rate. No condition other than as provided herein or in Sections 229.3 and 229.5 shall be exacted as a prerequisite to any such loan. This clause shall not apply to term insurance.

(g) A provision for nonforfeiture benefits and cash surrender values in accordance with the requirements of paragraph (1) of Section 229.1 or, Section 229.2.

(h) A table showing in figures the loan values and the options available under the policy each year, upon default in premium payments, during at least the first 20 years of the policy; the policy to contain a provision that the

company will furnish upon request an extension of such table beyond the years shown in the policy.

(i) A provision that in event of default in premium payments the value of the policy is applied to the purchase of other insurance as provided in this Section, and if such insurance is in force and the original policy is not surrendered to the company and cancelled, the policy may be reinstated within 3 years from such default, upon evidence of insurability satisfactory to the company and payment of arrears of premiums and the payment or reinstatement of any other indebtedness to the company upon the policy, with interest on the premiums at a rate not exceeding 6% per annum payable annually and with interest on the indebtedness at a rate not exceeding the rate prescribed by Section 229.5.

(j) A provision that when a policy is a claim by the death of the insured settlement shall be made upon receipt of due proof of death and not later than 2 months after the receipt of such proof. The policy may require that due proof of the death of the insured shall consist of a certified copy of the death certificate of the insured, or other lawful evidence providing equivalent information, and proof of the claimant's interest in the proceeds. If due proof of death requires a certified copy of the death certificate, then no more than one beneficiary shall be required to submit a certified copy of the death

certificate.

(k) If the policy provides for payment of its proceeds in installments, a table showing the amount and period of such installments shall be included in the policy.

(l) Interest shall accrue on the proceeds payable because of the death of the insured, from date of death, at the rate of 10% annually on the total amount payable or the face amount if payments are to be made in installments until the total payment or first installment is paid, unless payment is made within 31 days from the latest of the following to occur:

(1) the date that due proof of death is received by the company;

(2) the date that the company receives sufficient information to determine its liability, the extent of the liability, and the appropriate payee legally entitled to the proceeds; or

(3) the date that legal impediments to payment of proceeds that depend on the action of parties other than the company are resolved and sufficient evidence of the same is provided to the company; legal impediments to payment include, but are not limited to, (A) the establishment of guardianships and conservatorships, (B) the appointment and qualification of trustees, executors, and administrators, and (C) the submission of information

required to satisfy State and federal reporting requirements.

This provision need not appear in the policy, however, the company shall notify the beneficiary at the time of claim of this provision. The payment of interest shall apply to all policies now in force, as well as those written after the effective date of this amendment.

(m) Title on the face and on the back of the policy briefly describing its form.

(n) A provision, or a notice attached to the policy, to the effect that during a period of ten days from the date the policy is delivered to the policy owner, it may be surrendered to the insurer together with a written request for cancellation of the policy and in such event, the insurer will refund any premium paid therefor, including any policy fees or other charges. The Director may by rule exempt specific types of policies from the requirements of this subsection.

(2) In the case of the replacement of life insurance, as defined in the rule promulgated by the Director, the replacing insurer shall either (1) delay the issuance of its policy for not less than 20 days from the date it has transmitted a policy summary to the existing insurer, or (2) provide in a form titled "Notice Regarding Replacement of Life Insurance", as well as in its policy, or in a separate notice delivered with the policy, that the insured has the right to an unconditional

refund of all premiums paid, and that such right may be exercised within a period of 20 days commencing from the date of delivery of such policy. Where option (2) is exercised, the replacing insurer shall also transmit a policy summary to the existing insurer within 3 working days after the date the replacement policy is issued.

(3) Any of the foregoing provisions or portions thereof not applicable to single premium or nonparticipating or term policies shall to that extent not be incorporated therein. This Section shall not apply to policies of reinsurance nor to policies issued or granted pursuant to the nonforfeiture provisions prescribed in subparagraph (g) of paragraph (1) of this Section.

(Source: P.A. 97-527, eff. 8-23-11.)

Section 50. The Unclaimed Life Insurance Benefits Act is amended by changing Section 15 as follows:

(215 ILCS 185/15)

Sec. 15. Insurer conduct.

(a) An insurer shall initially perform a comparison of its insureds', annuitants', and retained asset account holders' in-force policies, annuity contracts, and retained asset accounts in force on or after January 1, 2017 by using the full Death Master File. The initial comparison shall be completed on or before December 31, 2017. An insurer required to perform

a comparison of its insureds', annuitants', and retained asset account holders' in-force policies, annuity contracts, and retained asset accounts in force on or after January 1, 2012 shall perform a comparison of policies, annuity contracts, and retained asset accounts in force between January 1, 2012 and December 31, 2016 on or before December 31, 2018 by using the full Death Master File. An insurer required to perform a comparison of electronic searchable files concerning its insureds', annuitants', and retained asset account holders' in-force policies, annuity contracts, and retained asset accounts in force on or after January 1, 2000 shall perform a comparison of policies, annuity contracts, and retained asset accounts in force between January 1, 2000 and December 31, 2016 on or before December 31, 2018 by using the full Death Master File. Thereafter, an insurer shall perform a comparison on at least a semi-annual basis using the Death Master File update files for comparisons to identify potential matches of its insureds, annuitants, and retained asset account holders. In the event that one of the insurer's lines of business conducts a search for matches of its insureds, annuitants, and retained asset account holders against the Death Master File at intervals more frequently than semi-annually, then all lines of the insurer's business shall conduct searches for matches against the Death Master File with the same frequency. Within 6 months after acquisition of policies, annuity contracts, or retained asset accounts from another insurer,

the acquiring insurer shall compare all newly acquired policies, annuity contracts, and retained asset accounts that were not searched by the previous insurer in compliance with this Act against the complete Death Master File to identify potential matches of its insureds, annuitants, and retained asset account holders. Upon any subsequent acquisition of policies, annuity contracts, or retained asset accounts from another insurer, when the previous insurer has already conducted a search of the newly acquired policies, annuity contracts, and retained asset accounts using the complete Death Master File, the acquiring insurer shall compare all newly acquired policies, annuity contracts, and retained asset accounts using all of the Death Master File updates since the time the previous insurer conducted the complete search to identify potential matches of its insureds, annuitants, and retained asset account holders.

An insured, an annuitant, or a retained asset account holder is presumed dead if the date of his or her death is indicated by the comparison required in this subsection (a), unless the insurer has competent and substantial evidence that the person is living, including, but not limited to, a contact made by the insurer with the person or his or her legal representative.

For those potential matches identified as a result of a Death Master File match, the insurer shall within 120 days after the date of death notice, if the insurer has not been

contacted by a beneficiary, determine whether benefits are due in accordance with the applicable policy or contract and, if benefits are due in accordance with the applicable policy or contract:

(1) use good faith efforts, which shall be documented by the insurer, to locate the beneficiary or beneficiaries; the Department shall establish by administrative rule minimum standards for what constitutes good faith efforts to locate a beneficiary, which shall include: (A) searching insurer records; (B) the appropriate use of First Class United States mail, e-mail addresses, and telephone calls; and (C) reasonable efforts by insurers to obtain updated contact information for the beneficiary or beneficiaries; good faith efforts shall not include additional attempts to contact the beneficiary at an address already confirmed not to be current;

If the beneficiary is a charitable organization as defined in Section 5 of the Charitable Organization Beneficiary Act, but excluding not-for-profit organizations that are the irrevocable sole beneficiary of a life insurance policy covered by Section 245.2 of the Illinois Insurance Code, the insurer shall, within 120 days, including if the insurer has been contacted by the charitable beneficiary:

(A) determine whether the charitable organization has a right to the proceeds of the policy, annuity

contract, or a retained asset account;

(B) provide a general description of the policy, annuity contract, or a retained asset account that may be held for the benefit of the charitable organization, and the exact language of the beneficiary designation, in accordance with subsection (c);

(C) include information that verifies whether the insurer has already obtained the official death certificate or documentation needed to verify the death of the insured, annuitant, or retained asset account holder; and

(2) provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim, including the need to provide an official death certificate if applicable under the policy or annuity contract.

If the beneficiary is a charitable organization as defined in Section 5 of the Charitable Organization Beneficiary Act, the insurer shall, within 120 days, provide the forms and instructions pursuant to subsection (a) (2), and the insurer has the same duties as a holder of property under Section 20 of the Charitable Organization Beneficiary Act, including if the insurer has been contacted by the charitable beneficiary.

(b) Insurers shall implement procedures to account for the

following when conducting searches of the Death Master File:

(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) incomplete social security numbers.

(c) To the extent permitted by law, an insurer may disclose the minimum necessary personal information about the insured, annuity owner, retained asset account holder, or beneficiary to a person whom the insurer reasonably believes may be able to assist the insurer with locating the beneficiary or a person otherwise entitled to payment of the claims proceeds.

(d) An insurer or its service provider shall not charge any beneficiary or other authorized representative for any fees or costs associated with a Death Master File search or verification of a Death Master File match conducted pursuant to this Act.

(e) The benefits from a policy, annuity contract, or a retained asset account, plus any applicable accrued interest, shall first be payable to the designated beneficiaries or owners and, in the event the beneficiaries or owners cannot be found, shall be reported and delivered to the State Treasurer

pursuant to the Revised Uniform Unclaimed Property Act. Nothing in this subsection (e) is intended to alter the amounts reportable under the existing provisions of the Revised Uniform Unclaimed Property Act or to allow the imposition of additional statutory interest under Article XIV of the Illinois Insurance Code.

(f) Failure to meet any requirement of this Section with such frequency as to constitute a general business practice is a violation of Section 424 of the Illinois Insurance Code. Nothing in this Section shall be construed to create or imply a private cause of action for a violation of this Section.

(Source: P.A. 99-893, eff. 1-1-17; 100-22, eff. 1-1-18; 100-543, eff. 1-1-18; 100-863, eff. 8-14-18.)