

Chapter 38

(Senate Bill 217)

AN ACT concerning

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

FOR the purpose of prohibiting an insurer from ~~using~~ offering a certain retained asset account as the mode of settlement of the proceeds payable under a life insurance policy or annuity contract unless the insurer ~~discloses the option of using a retained asset account to the beneficiary or the beneficiary's legal representative at a certain time; requiring the insurer to inform the beneficiary of the right to receive a lump sum payment of certain proceeds in a certain form; requiring an insurer to ensure that a complete description and explanation, in a certain format, of all of the payment options for certain proceeds available to the beneficiary be made at a certain time under certain circumstances; requiring that certain information be included in the description and explanation of payment options for certain proceeds~~ makes a certain offer and complies with certain disclosure requirements; requiring an insurer to disclose in writing to a beneficiary all the settlement options available under a certain policy or contract under certain circumstances; requiring an insurer that offers to a beneficiary a retained asset account as a settlement option to provide to the beneficiary in writing certain information under certain circumstances; requiring the description and explanation certain information to be in a certain form; requiring insurers to report certain information about retained asset accounts to the Maryland Insurance Administration; requiring an insurer to immediately return any remaining balance in a retained asset account to the beneficiary if the account becomes inactive in a certain manner; providing that failure to meet certain requirements of this Act is an unfair trade practice and a violation of certain provisions of the Insurance Article; defining a certain term; providing for the applicability of this Act; and generally relating to retained asset accounts under life insurance and annuities.

BY adding to

Article – Insurance

Section 16–117

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Insurance

16-117.

(A) IN THIS SECTION, “RETAINED ASSET ACCOUNT” MEANS ANY MECHANISM WHEREBY THE SETTLEMENT OF PROCEEDS PAYABLE UNDER A LIFE INSURANCE POLICY OR AN ANNUITY CONTRACT, ~~INCLUDING THE PAYMENT OF CASH SURRENDER VALUE,~~ IS ACCOMPLISHED BY THE INSURER OR AN ENTITY ACTING ON BEHALF OF THE INSURER DEPOSITING THE PROCEEDS INTO ~~AN A~~ CHECKING OR DRAFT ACCOUNT, WHERE THOSE PROCEEDS ARE RETAINED BY THE INSURER IN ACCORDANCE WITH A SUPPLEMENTARY CONTRACT.

(B) ~~(1) AN INSURER MAY NOT USE~~ OFFER A RETAINED ASSET ACCOUNT AS THE MODE OF SETTLEMENT OF THE PROCEEDS PAYABLE UNDER A LIFE INSURANCE POLICY OR AN ANNUITY CONTRACT UNLESS, ~~BEFORE THE TRANSFER OF THE DEATH BENEFIT TO THE RETAINED ASSET ACCOUNT, THE INSURER DISCLOSES THE OPTION OF USING A RETAINED ASSET ACCOUNT TO THE BENEFICIARY OR THE BENEFICIARY’S LEGAL REPRESENTATIVE.~~

~~(2) THE INSURER SHALL INFORM THE BENEFICIARY OF THE RIGHT TO RECEIVE A LUMP-SUM PAYMENT OF THE PROCEEDS OF THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT IN THE FORM OF A BANK CHECK.~~

~~(C) (1) THE INSURER SHALL ENSURE THAT A COMPLETE DESCRIPTION AND EXPLANATION, IN WRITTEN OR ELECTRONIC FORMAT, OF ALL OF THE PAYMENT OPTIONS FOR THE PROCEEDS OF A LIFE INSURANCE POLICY OR ANNUITY CONTRACT AVAILABLE TO THE BENEFICIARY PRECEDES OR ACCOMPANIES THE TENDER OF OTHER THAN A LUMP-SUM PAYMENT OF THE DEATH BENEFIT UNDER THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT.~~

~~(2) THE REQUIRED DESCRIPTION AND EXPLANATION SHALL INCLUDE THE FOLLOWING: THE INSURER:~~

(1) OFFERS THE BENEFICIARY AT LEAST ONE OTHER MODE OF SETTLEMENT OF PROCEEDS; AND

(2) COMPLIES WITH THE PROVISIONS OF SUBSECTIONS (C) AND (D) OF THIS SECTION.

(C) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, WHEN A BENEFICIARY FILES A CLAIM FOR PROCEEDS, IF ONE OF THE SETTLEMENT OPTIONS IS A RETAINED ASSET ACCOUNT, THE INSURER SHALL DISCLOSE IN WRITING TO THE BENEFICIARY ALL THE SETTLEMENT OPTIONS AVAILABLE UNDER THE POLICY OR CONTRACT.

(D) (1) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, IF AN INSURER OFFERS TO A BENEFICIARY A RETAINED ASSET ACCOUNT AS A SETTLEMENT OPTION, THE INSURER SHALL PROVIDE TO THE BENEFICIARY IN WRITING:

(I) ~~THE~~ A RECOMMENDATION TO CONSULT A TAX ADVISOR, AN INVESTMENT ADVISOR, OR ANY OTHER FINANCIAL ADVISOR REGARDING TAX LIABILITY AND INVESTMENT OPTIONS;

(II) AN EXPLANATION OF THE FEATURES OF THE RETAINED ASSET ACCOUNT, INCLUDING:

~~(II)~~ 1. THE INITIAL INTEREST RATE METHOD USED TO DETERMINE INTEREST RATES APPLIED TO THE RETAINED ASSET ACCOUNT, WHEN AND HOW INTEREST RATES MAY CHANGE, AND ANY DIVIDENDS AND OTHER GAINS THAT MAY BE PAID OR DISTRIBUTED TO THE ACCOUNT HOLDER;

~~(III)~~ 2. THE CUSTODIAN OF THE FUNDS OR ASSETS OF THE RETAINED ASSET ACCOUNT;

~~(IV)~~ 3. WHETHER THE ~~COVERAGE~~ FUNDS IN THE RETAINED ASSET ACCOUNT ARE GUARANTEED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) AND THE AMOUNT OF THE COVERAGE, IF ANY;

~~(V)~~ 4. THE LIMITATIONS, IF ANY, ON THE NUMBERS AND AMOUNTS OF WITHDRAWALS OF FUNDS FROM THE RETAINED ASSET ACCOUNT OR INVESTMENT, INCLUDING ANY MINIMUM OR MAXIMUM ~~BENEFIT PAYMENT~~ WITHDRAWAL AMOUNTS;

~~(VI) THE DELAYS, IF ANY, THAT THE ACCOUNT HOLDER MAY ENCOUNTER IN COMPLETING AUTHORIZED TRANSACTIONS AND THE ANTICIPATED DURATION OF THE DELAYS;~~

~~(VII)~~ 5. THE SERVICES PROVIDED FOR A FEE, INCLUDING A LIST OF THE FEES OR THE METHOD OF THEIR CALCULATION;

~~(VIII)~~ 6. THE NATURE AND FREQUENCY OF STATEMENTS OF ACCOUNT;

~~(IX) 7. A STATEMENT THAT THE ~~PAYMENT OF SOME OR ALL OF THE PROCEEDS OF THE DEATH BENEFIT MAY BE BY THE DELIVERY OF CHECKS, DRAFTS, OR OTHER INSTRUMENTS TO ACCESS THE AVAILABLE FUNDS~~~~

OBLIGATION OF THE INSURER TO PAY THE TOTAL POLICY OR CONTRACT PROCEEDS IS SATISFIED BY DEPOSITING THE TOTAL PROCEEDS IN THE RETAINED ASSET ACCOUNT;

~~(X)~~ 8. A STATEMENT THAT THE ENTIRE PROCEEDS ARE AVAILABLE TO THE ACCOUNT HOLDER BY THE USE OF ONE CHECK, DRAFT, OR OTHER INSTRUMENT;

~~(XI)~~ 9. 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

~~(XII)~~ 10. THE TELEPHONE NUMBER, ADDRESS, AND OTHER CONTACT INFORMATION, INCLUDING WEB SITE ADDRESS, FOR OBTAINING ADDITIONAL INFORMATION REGARDING THE RETAINED ASSET ACCOUNT; AND

~~(XIII) THE STATEMENT "FOR FURTHER INFORMATION, PLEASE CONTACT THE MARYLAND INSURANCE ADMINISTRATION".~~

(III) THE STATEMENT "FOR FURTHER INFORMATION, PLEASE CONTACT YOUR STATE INSURANCE DEPARTMENT".

~~(3) (2) THE REQUIRED DESCRIPTION AND EXPLANATION INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE IN: EASY TO READ LANGUAGE.~~

~~(I) EASY TO UNDERSTAND LANGUAGE; AND~~

~~(II) BOLD OR AT LEAST 12 POINT TYPE.~~

~~(D) INSURERS SHALL REPORT, ON AN ANNUAL BASIS, THE FOLLOWING INFORMATION TO THE ADMINISTRATION:~~

~~(1) THE NUMBER AND DOLLAR BALANCE OF RETAINED ASSET ACCOUNTS IN FORCE AT THE BEGINNING OF THE YEAR;~~

~~(2) THE NUMBER AND DOLLAR AMOUNT OF RETAINED ASSET ACCOUNTS ISSUED OR ADDED DURING THE YEAR;~~

~~(3) THE NUMBER AND DOLLAR AMOUNT OF RETAINED ASSET ACCOUNTS CLOSED OUT OR WITHDRAWN DURING THE YEAR;~~

~~(4) THE NUMBER AND DOLLAR BALANCE OF RETAINED ASSET ACCOUNTS IN FORCE AT THE END OF THE YEAR;~~

~~(5) THE INVESTMENT EARNINGS CREDITED TO RETAINED ASSET ACCOUNTS;~~

~~(6) FEES AND OTHER CHARGES ASSESSED DURING THE YEAR;~~

~~(7) A DESCRIPTION OF THE INTEREST RATES PAID ON RETAINED ASSET ACCOUNTS AND THE METHODOLOGY AND FACTORS USED TO DETERMINE THE INTEREST RATES PAID TO BENEFICIARIES WITH RETAINED ASSET ACCOUNTS;~~

~~(8) THE TOTAL NUMBER AND VALUE OF RETAINED ASSET ACCOUNTS THAT HAVE BEEN IN EXISTENCE FOR 1 YEAR, 3 YEARS, AND 5 YEARS;~~

~~(9) THE IDENTITY OF ANY FINANCIAL INSTITUTION OR OTHER ENTITY THAT ADMINISTERS RETAINED ASSET ACCOUNTS ON THE INSURER'S BEHALF;~~

~~(10) THE NUMBER AND AMOUNTS OF RETAINED ASSET ACCOUNTS THAT ARE TRANSFERRED ANNUALLY TO STATE UNCLAIMED PROPERTY FUNDS UNDER ABANDONED PROPERTY LAWS; AND~~

~~(11) ANY OTHER INFORMATION RELATING TO RETAINED ASSET ACCOUNTS AS REQUIRED BY THE ADMINISTRATION.~~

~~(E) (1) AN INSURER SHALL RETURN IMMEDIATELY ANY REMAINING BALANCE HELD IN A RETAINED ASSET ACCOUNT TO THE BENEFICIARY WHEN THE RETAINED ASSET ACCOUNT BECOMES INACTIVE.~~

~~(2) A RETAINED ASSET ACCOUNT BECOMES INACTIVE FOR PURPOSES OF THIS SUBSECTION IF NO FUNDS ARE WITHDRAWN FROM THE RETAINED ASSET ACCOUNT, AND NO AFFIRMATIVE DIRECTIVE HAS BEEN PROVIDED TO THE INSURER BY THE BENEFICIARY, DURING ANY CONTINUOUS 4 YEAR PERIOD.~~

(E) AN INSURER IS NOT REQUIRED TO PROVIDE THE DISCLOSURES OR INFORMATION SPECIFIED IN SUBSECTIONS (C) AND (D) OF THIS SECTION 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.

(F) FAILURE TO MEET ANY REQUIREMENT OF THIS SECTION IS AN UNFAIR TRADE PRACTICE AND A VIOLATION OF TITLE 27 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act applies to claims for death benefits under individual or group policies of life insurance or individual or group annuity contracts issued, delivered, or renewed in the State on or after October 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.