

DRAFT UNCLAIMED LIFE INSURANCE AND ANNUITIES MODEL ACT ISSUES

Draft Model Section	Comments	Issue
Section 3D – Definition of “Death Master File Match”		
	<p>The Unclaimed Life Insurance Benefits Working Group voted 7 to 6 to not accept a suggested revision to the definition of “death master file match” in Section 3D to delete the cross-reference to Section 5A and substitute the words “by the insurer.”</p>	<p>Current draft Model language reflecting the Working Group’s non-acceptance of the proposed revision:</p> <p>D. “Death master file match” means a search of the DMF that results in a match of the social security number or name and date of birth of an insured made and validated in accordance with the requirements of Section 5A of this Act.</p>
Section 4A – Applicability		
	<p>The Unclaimed Benefits Model Drafting Subgroup voted 7 to 6 to change the applicability from three options and then voted by 10 to 2 for the retroactive application option of the draft model’s provisions to life insurance policies, annuity contracts and retained asset accounts as of its effective date and also including policies that have lapsed within 18 months prior to the effective date coupled with Iowa’s language (Section 5B) to permit waivers from the model’s provisions.</p>	<p>Draft Model language for retroactive application coupled with the Iowa waiver language, as voted on by Subgroup:</p> <p>Section 4A: A. The requirements of this Act shall apply to all in-force and future policies, annuity contracts and retained asset accounts as of the effective date of this Act and policies that have lapsed within eighteen (18) months prior to the effective date of this Act.</p> <p>Drafting Note: Subsection A above provides for a retroactive application of the requirements of this Act. Each state should conduct its own legal analysis and review of its laws, case law and any other relevant authority to determine whether, and in what circumstances, retroactive laws are permitted in the state and whether the statute must expressly provide that it is intended to be retroactive.</p> <p>Iowa Language in Section 5B, as revised by the Subgroup:</p> <p>Section 5B: B. (1) (a) The commissioner may exempt an insurer from the DMF comparisons required under Subsection A if the insurer demonstrates to the commissioner’s satisfaction that compliance would result in financial hardship to the insurer or is not cost effective. (b) In making a determination under Subparagraph (a), the commissioner, among other things, may consider the number of policies involved, the costs of conducting a retroactive search in relation to the collected premiums for those policies, whether the policy information is stored electronically and whether the insurer previously has engaged in the use of the DMF for its annuity contracts, but not for its life insurance policies.</p>

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	<p>The Unclaimed Life Insurance Benefits Working Group voted 7 to 6 to add back in the three options related to the draft model’s applicability and removing the model’s application to policies that have lapsed within 18 months of the proposed effective date.</p>	<p>(2) The commissioner may phase in the requirements for compliance with Subsection A according to a plan and timeline the commissioner approves.</p> <p>Three applicability option language, as the Working Group voted to add back to draft model:</p> <p>Option 1. Prospective Application The requirements of this Act shall apply to all life insurance policies, annuity contracts and retained asset accounts issued or put in-force on or after the effective date of this Act.</p> <p>Option 2. Retroactive Application The requirements of this Act shall apply to all in force and future life insurance policies, annuity contracts and retained asset accounts as of the effective date of this Act.</p> <p>Option 3. Asymmetric Conduct Application</p> <p> A. For purposes of this section, “asymmetric conduct” means an insurer’s use of the Death Master File prior to <i>[insert effective date of the Act]</i> in connection with searching for information regarding whether the annuitants under the insurer’s annuities might be deceased, but not in connection with whether the insureds under its policies might be deceased.</p> <p> B. An insurer that has not engaged in asymmetric conduct prior to <i>[insert effective date of Act]</i> shall not be required to comply with the requirements of this Act with respect to life insurance policies, annuity contracts, or retained asset accounts issued prior to <i>[insert effective date of the Act]</i>.</p> <p>Drafting Note: This section has three options—prospective application, retroactive application or application based on asymmetric conduct—for states to consider concerning the applicability of the requirements of this Act. Each state should select which option is appropriate for it given a number of issues that have arisen in some states particularly related to retroactive application. Each state should conduct its own legal analysis of its laws, including case law, to determine which option is appropriate for it to include in this Act.</p>
<p>Section 5A(1) and (2) – Insurer Conduct</p>	<p>Similar retroactive applicability issue as discussed in Section 4A—Applicability. Section 5A(1) requires insurers initially to compare policies that have lapsed within 18 months prior to the draft model’s effective date. Section 5A(2) requires insurers after the initial search to thereafter compare policies that have lapsed</p>	<p>Draft Model language for Section 5A(1) and (2), as developed by Subgroup:</p> <p>A. An insurer shall comply with the following requirements for performing a comparison of its policies, annuity contracts and retained asset accounts against the death master file:</p> <p>(1) Initially, an insurer shall compare all in-force policies, annuity contracts and retained asset accounts and policies that have lapsed within eighteen (18) months prior to the effective date of</p>

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	<p>within 18 months against any updates to the DMF on at least a semi-annual basis.</p>	<p>this Act in its records against the complete death master file to identify potential matches of its insureds using the search criteria in Paragraph (4).</p> <p>Drafting Note: States may want to include language in Paragraph (1) providing that the first DMF comparison search insurers must make should take place within [x] months after the effective date of the Act.</p> <p>(2) Thereafter, an insurer shall compare all in-force policies, annuity contracts and retained asset accounts and policies that have lapsed within eighteen (18) months in its records against any updates to the death master file on at least a semi-annual basis to identify potential matches of its insureds using the search criteria in Paragraph (4). If the insurer conducts death master file searches for any of its other lines of insurance business more frequently than semiannually, the insurer shall conduct a death master file search of all lines of business with the same frequency.</p> <p>Potential Revised Language Deleting the Language “policies that have lapsed within 18 months”:</p> <p>A. An insurer shall comply with the following requirements for performing a comparison of its policies, annuity contracts and retained asset accounts against the death master file:</p> <p>(1) Initially, an insurer shall compare all in-force policies, annuity contracts and retained asset accounts in its records against the complete death master file to identify potential matches of its insureds using the search criteria in Paragraph (4).</p> <p>Drafting Note: States may want to include language in Paragraph (1) providing that the first DMF comparison search insurers must make should take place within [x] months after the effective date of the Act.</p> <p>(2) Thereafter, an insurer shall compare all in-force policies, annuity contracts and retained asset accounts in its records against any updates to the death master file on at least a semi-annual basis to identify potential matches of its insureds using the search criteria in Paragraph (4). If the insurer conducts death master file searches for any of its other lines of insurance business more frequently than semiannually, the insurer shall conduct a death master file search of all lines of business with the same frequency.</p>

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