

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4637

**FISCAL
NOTE**

BY DELEGATES ROWE, WALTERS, SKINNER, BATES,

GUTHRIE AND MANCHIN

[Introduced February 20, 2016; Referred
to the Committee on Banking and Insurance then the
Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §33-13-49, relating to requiring insurers of policies providing for payments on
3 death of a named insured to review databases to determine if insured has died and to
4 require due diligence to inform beneficiaries or others of availability of death proceeds.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §33-13-49, to read as follows:

ARTICLE 13. LIFE INSURANCE.

**§33-13-49. Insurers who are to provide payments on death to review annually to see if
insured person has died, and inform named beneficiaries or others of availability of
death proceeds.**

1 (a) Policies of insurance and contracts for annuity payments which provide for payments
2 on death of a named insured person to named beneficiaries shall require the insurer to review at
3 least annually national databases available to businesses which list deaths of persons in the
4 United States including the database for the federal Social Security Administration, to determine
5 if a named insured person is deceased, and to require the insurer to use due diligence to inform
6 the named insured person's beneficiaries, or next of kin or personal representative of his or her
7 estate of the availability of death proceeds under the policy or contract.

8 (b) If no claim for death proceeds is received within four months of the date of death, the
9 insurer shall give notice of the availability of death proceeds by a written notice mailed by first
10 class U. S. Mail to the insurance agent or agency which sold the policy of insurance or annuity, if
11 any, and mailed to the last known address of the named insured person by first class U. S. Mail,
12 addressed to the name of the named insured person or "family." If the notice to the address of
13 the named insured person is returned by the Postal Service to the insurer or if the insurer
14 determines that it is more likely than not that the named insured person is deceased, a second
15 notice shall be sent to the last known address of the named beneficiary or beneficiaries. The

16 notices shall state that death proceeds under the identified policy or contract number are available
17 on the death of the named person. The insurer, in its sole discretion, may elect to state in the
18 notice the amount of the death proceeds, but the policy shall not require that disclosure to be
19 included in the notices provided for under this section. If information confirming the death of the
20 named insured person is received or if, despite due diligence to give notice of death benefits as
21 required in this section, there has been no claim made within four months of the date of the named
22 insured person's death, the insurer shall notify the State Treasurer of those facts and offer to pay
23 the death proceeds to the State Treasurer on or before July 1 of the next year immediately
24 subsequent to the year of the death of the named insured person.

25 (c) The insurance policies and annuity contracts shall provide that the insurer may pay its
26 own premiums from policy funds for no more than one year without reviewing the databases to
27 determine if the policy holder or named insured person may be deceased.

28 (d) The terms of the policies or contracts shall be approved by the Insurance
29 Commissioner in form and content to comply with this section. Any policy or contract which is not
30 in full compliance with this section on the effective date of this section, shall be amended by
31 endorsement to the policy or contract, as approved by the Insurance Commissioner, within two
32 years of the effective date of this section. The Insurance Commissioner may issue rules for the
33 purposes of this section.

34 (e) No insurer acting in good faith under the policy or contract terms required by this
35 section may be liable to any person for damages for any matter relating to the insurer's actions to
36 fulfill those terms. It is intended that an insurer rely on the information provided on the databases
37 and in the policies or contracts to pay death benefits.

38 (f) An insurer may provide in the policy or contract for a fee of up to \$45.00 to be charged
39 to death proceeds for issuing notices to be given by the insurer as provided in the policy or
40 contract.

NOTE: The purpose of this bill is to require insurers of policies or contracts paying benefits

on death of an insured, to review annually to see if the insured has died and to contact beneficiaries or others of availability of benefits.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.