

304.12-035 Beneficiaries' Bill of Rights.

- (1) As used in this section, "retained asset account" means any mechanism whereby the settlement of proceeds payable under a life insurance policy, including but not limited to 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 account where those proceeds are retained by the insurer, pursuant to a supplementary contract not involving annuity benefits.
- (2)
 - (a) An insurer may not use a retained asset account as the mode of settlement unless the insurer discloses the use of a retained asset account to the beneficiary or the beneficiary's legal representative prior to the transfer of life insurance proceeds to a retained asset account.
 - (b) A beneficiary shall be informed, prior to the distribution of any life insurance proceeds, of his or her right to receive a lump-sum payment of life insurance proceeds in the form of a bank check or other form of immediate full payment of benefits.
- (3)
 - (a) A complete listing and clear explanation of all life insurance proceeds payment options available to the beneficiary shall accompany, in written or electronic format, the use of a retained asset account. The complete listing and clear explanation of life insurance proceeds payment options shall accompany the disclosure required by subsection (2)(b) of this section.
 - (b) Pursuant to paragraph (a) of this subsection, the use of a retained asset account shall require the following to be included in the complete listing and clear explanation disclosure:
 1. The recommendation to consult a tax, investment, or other financial advisor regarding tax liability and investment options;
 2. The initial interest rate, the circumstances and time frames under which interest rates may change, and any dividends and other gains that may be paid or distributed to the account holder;
 3. The custodian of the funds or assets of the account;
 4. The coverage guaranteed by the Federal Deposit Insurance Corporation (FDIC), if any, and the amount of the coverage;
 5. The limitations, if any, on the number or amount of withdrawals or transfers of funds from the account, including any minimum or maximum withdrawal amounts for payment of life insurance proceeds;
 6. The delays, if any, that the account holder may encounter in completing authorized transactions and the anticipated duration of such delays;
 7. The services provided for a fee, including a list of the fees and the method of their calculation;
 8. The nature and frequency of statements of account;
 9. The payment of some or all of the life insurance proceeds may be by the delivery of checks, drafts, or other instruments to access the available funds;

10. The entire life insurance proceeds are available to the account holder by the use of one (1) check, draft, or other instrument;
 11. The insurer or a related party may derive income, in addition to any fees charged on the account, from the total gains received on the investment of the balance of funds in the account;
 12. The telephone number, address, and other contact information, including a Web site address, to obtain additional information regarding the account; and
 13. The following statement, "FOR FURTHER INFORMATION, PLEASE CONTACT YOUR STATE DEPARTMENT OF INSURANCE."
- (c) The writings produced to satisfy the requirements of this subsection shall be written in plain language and printed in bold in no smaller than a twelve (12) point font.
- (4) (a) Insurers shall, on at least an annual basis, report the following information to the Department of Insurance:
1. The number and dollar amount of retained asset accounts:
 - a. In force at the beginning of the year;
 - b. Issued or added during the year;
 - c. Closed or withdrawn during the year;
 - d. In force at the end of the year; and
 - e. That are transferred annually pursuant to KRS Chapter 393;
 2. The dollar amount of investment earnings or interest credited to retained asset accounts during the year;
 3. The dollar amount of fees and other charges assessed during the year;
 4. A narrative description of how the retained asset accounts are structured. The description shall include:
 - a. All of the interest rates paid to retained asset account holders during the reporting year, as well as the number of times changes were made to interest rates during the reporting year;
 - b. A list of all applicable fees charged by the reporting entity directly or indirectly associated with the retained asset accounts; and
 - c. Whether the retained asset accounts were the default method for satisfying life insurance claims;
 5. The number and dollar amount of retained asset accounts in force at the end of the current year as compared to the prior year segregated by the following ages of the outstanding retained asset accounts:
 - a. Zero (0) to twelve (12) months;
 - b. Thirteen (13) to twenty-four (24) months;
 - c. Twenty-five (25) to thirty-six (36) months;
 - d. Thirty-seven (37) to forty-eight (48) months;

- e. Forty-nine (49) to sixty (60) months; and
 - f. Greater than sixty (60) months;
 - 6. The identity of any entity or financial institution that administers retained asset accounts on behalf of the insurer; and
 - 7. Any other information relating to retained asset accounts as requested or required by the commissioner of the Department of Insurance.
- (b) All marketing materials, disclosure statements, and supplemental contract forms utilized in connection with retained asset accounts shall be filed with the Department of Insurance prior to their use. The commissioner shall disapprove any materials, statements, or forms submitted under this section that are inconsistent with subsection (3) of this section or are otherwise untrue, unfair, deceptive, false, or misleading.
- (5) An insurer shall immediately return any remaining balance held in a retained asset account to the beneficiary when the account becomes inactive. A retained asset account shall become inactive for purposes of this subsection if no funds are withdrawn from the account, or if no affirmative directive has been provided to the insurer by the beneficiary, during any continuous three (3) year period.
- (6) The commissioner may promulgate administrative regulations implementing this section.
- (7) This section may be cited as the Beneficiaries' Bill of Rights.

Effective: June 8, 2011

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