

House Bill 2480

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires insurers to offer life insurance beneficiaries option of lump sum payment. Requires insurers to provide disclosures to beneficiaries choosing to deposit amount of death benefit in retained asset account. Requires insurers to provide information to Department of Consumer and Business Services regarding retained asset accounts. Allows private right of action against insurer by beneficiary.

A BILL FOR AN ACT

1 Relating to life insurance; creating new provisions; and amending ORS 743.192 and 743.327.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1. Sections 2 to 6 of this 2011 Act are added to and made a part of the Insurance Code.**

4 **SECTION 2. (1) As used in sections 2 to 4 of this 2011 Act, "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 an insurer, or an entity acting on behalf of an insurer, pursuant to a supplementary contract.**

5 (2) **An insurer may not use a retained asset account as the mode of settlement unless the insurer discloses the option to the beneficiary or the beneficiary's legal representative and receives the beneficiary's approval of the option prior to the transfer of the death benefit to a retained asset account.**

6 (3) **If an insurer offers a beneficiary the option of receiving life insurance policy proceeds in a retained asset account, the insurer shall disclose:**

7 (a) **The initial interest rate paid on funds in the account, when and how interest rates may change and any dividends and other gains that may be paid or distributed to the account holder;**

8 (b) **The custodian of the funds in the account;**

9 (c) **The amount insured or guaranteed by the Federal Deposit Insurance Corporation or the Oregon Life and Health Insurance Guaranty Association for the account and the amount of the account that is not insured or guaranteed;**

10 (d) **The limitations, if any, on the number and amount of withdrawals of funds from the account;**

11 (e) **The delays, if any, that the account holder may encounter in completing authorized account transactions and the anticipated duration of such delays;**

12 (f) **The services provided for a fee, including a list of the fees and the method of their calculation;**

13 **NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (g) The nature and frequency of statements for the account;

2 (h) That the payment of some or all of the proceeds of the death benefit may be by the
3 delivery of checks, drafts or other instruments to access the available funds;

4 (i) That the entire proceeds are available to the account holder by the use of one check,
5 draft or other instrument;

6 (j) That the insurer or a related party may derive income, in addition to any fees charged
7 on the account, from the total gains received on the investment of the balance of funds in
8 the account; and

9 (k) The telephone number, address and other contact information, including website ad-
10 dress, that may be used by the account holder to obtain additional information regarding the
11 account.

12 (4) If an insurer offers a beneficiary the option of receiving life insurance policy proceeds
13 in a retained asset account, the insurer shall recommend that the beneficiary:

14 (a) Consult a tax, investment or other financial advisor regarding tax liability and in-
15 vestment options; and

16 (b) Contact the Department of Consumer and Business Services for additional informa-
17 tion regarding life insurance benefits.

18 (5) All information disclosed by an insurer under this section must be presented in lan-
19 guage that is easy to understand and must be printed in at least 12-point type.

20 **SECTION 3.** Prior to March 1 of each year, an insurer shall submit the following infor-
21 mation to the Department of Consumer and Business Services for the previous calendar
22 year, in a format approved by the department:

23 (1) The number and total balance of retained asset accounts held by the insurer at the
24 beginning of the calendar year;

25 (2) The number and dollar amount of retained asset accounts added by the insurer during
26 the calendar year;

27 (3) The number and dollar amount of retained asset accounts closed during the calendar
28 year;

29 (4) The number and dollar amount of withdrawals from retained asset accounts during
30 the calendar year;

31 (5) The number and total balance of retained asset accounts held by the insurer at the
32 end of the calendar year;

33 (6) The investment earnings credited to retained asset accounts by the insurer during the
34 calendar year;

35 (7) Fees and other service charges on retained asset accounts assessed by the insurer
36 during the calendar year.

37 (8) A description of the interest rates paid on retained asset accounts and the method-
38 ology and factors used by the insurer to determine the interest rate;

39 (9) The number and total balance of retained asset accounts held by the insurer that have
40 been in existence for at least one year, at least three years and at least five years;

41 (10) The identity of any custodians of the retained asset accounts;

42 (11) The number and total balance of retained asset accounts that were transferred
43 during the calendar year to the state as unclaimed property under ORS 98.302 to 98.436; and

44 (12) Any other information relating to retained asset accounts as prescribed by the de-
45 partment.

1 **SECTION 4.** (1) All insurers authorized to transact life insurance in this state shall, prior
 2 to November 1 of each year, submit to the Department of Consumer and Business Services
 3 for review and approval by the department:

4 (a) Copies of forms and other printed materials that describe retained asset accounts or
 5 similar products offered by the insurer to prospective beneficiaries of life insurance policies;
 6 and

7 (b) Copies of all documents used by the insurer to establish a retained asset account,
 8 including contracts or agreements, claim forms and any other documents containing the in-
 9 formation required to be disclosed under section 2 of this 2011 Act.

10 (2) The department may collect a fee from the insurer sufficient to recover the costs of
 11 reviewing and approving materials under subsection (1) of this section.

12 **SECTION 5.** (1) A beneficiary injured as a result of a violation of any provision of section
 13 2 of this 2011 Act by an insurer may initiate an action to recover actual damages in any
 14 court of general equitable jurisdiction in this state.

15 (2) The court shall award reasonable attorney fees to a prevailing plaintiff in an action
 16 under this section at trial and on appeal. The court may award attorney fees to a prevailing
 17 defendant at trial or on appeal only if the court finds there was no objectively reasonable
 18 basis for bringing the action or asserting the ground for appeal.

19 (3) Notwithstanding any other provision of ORS chapter 12 or any other statute providing
 20 a limitation on the commencement of an action, an action arising from any act or omission
 21 of an insurer or an officer, employee or agent of the insurer within the scope of section 2
 22 of this 2011 Act shall be commenced within two years after the alleged loss or injury.

23 **SECTION 6.** The Director of the Department of Consumer and Business Services may
 24 adopt rules to carry out sections 2 to 4 of this 2011 Act.

25 **SECTION 7.** ORS 743.192 is amended to read:

26 743.192. (1) A life insurance policy shall contain a provision that when the policy becomes a
 27 claim by the death of the insured, settlement shall be made upon receipt of due proof of death and
 28 of the interest of the claimant.

29 (2)(a) An insurer shall offer a beneficiary the option of selecting a lump sum amount as
 30 a method of payment for proceeds of a life insurance policy. An insurer may offer a benefi-
 31 ciary the option of receiving the proceeds in a retained asset account.

32 (b) As used in this subsection, “retained asset account” has the meaning given that term
 33 in section 2 of this 2011 Act.

34 [(2)] (3) If the insurer fails to pay the proceeds of or make payment under the policy within 30
 35 days after receipt of due proof of death and of the interest of the claimant, and if the beneficiary
 36 elects to receive a lump sum settlement, the insurer shall pay interest on any money due and unpaid
 37 after expiration of the 30-day period. The insurer shall compute the interest from the date of the
 38 insured’s death until the date of payment, at a rate not lower than that paid by the insurer on other
 39 withdrawable policy owner funds. At the end of the 30-day period, the insurer shall notify the named
 40 beneficiary or beneficiaries at their last-known address that interest at the applicable rate will be
 41 paid on the lump sum proceeds from the date of death of the insured.

42 [(3)] (4) Nothing in this section shall be construed to allow an insurer to withhold payment of
 43 money payable under a life insurance policy to any named beneficiary for a period longer than
 44 reasonably necessary to transmit the payment.

45 **SECTION 8.** ORS 743.327 is amended to read:

1 743.327. (1) A group life insurance policy shall contain a provision that any sum becoming due
 2 by reason of the death of a person insured shall be payable to the beneficiary designated by the
 3 person insured, subject to the provisions of the policy in the event there is no designated benefi-
 4 cary, as to all or any part of such sum, living at the death of the person insured, and subject to any
 5 right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part
 6 of such sum not exceeding \$500 to any person appearing to the insurer to be equitably entitled
 7 thereto by reason of having incurred funeral or other expenses incident to the last illness or death
 8 of the person insured.

9 **(2)(a) An insurer shall offer a beneficiary the option of selecting a lump sum amount as**
 10 **a method of payment for proceeds of a group life insurance policy. An insurer may offer a**
 11 **beneficiary the option of receiving the proceeds in a retained asset account.**

12 **(b) As used in this subsection, “retained asset account” has the meaning given that term**
 13 **in section 2 of this 2011 Act.**

14 [(2)] (3) If the insurer fails to pay the proceeds of or make payment under the policy within 30
 15 days after receipt of due proof of death and of the interest of the claimant, and if the beneficiary
 16 elects to receive a lump sum settlement, the insurer shall pay interest on any money due and unpaid
 17 after expiration of the 30-day period. The insurer shall compute the interest from the date of the
 18 insured’s death until the date of payment, at a rate not lower than that paid by the insurer on other
 19 withdrawable policy owner funds. At the end of the 30-day period, the insurer shall notify the des-
 20 ignated beneficiary or beneficiaries at their last-known address that interest at the applicable rate
 21 will be paid on the lump sum proceeds from the date of death of the insured.

22 [(3)] (4) Nothing in this section shall be construed to allow an insurer to withhold payment of
 23 money payable under a group life insurance policy to any designated beneficiary for a period longer
 24 than reasonably necessary to transmit the payment.

25 **SECTION 9. Sections 2 to 6 of this 2011 Act and the amendments to ORS 743.192 and**
 26 **743.327 by sections 7 and 8 of this 2011 Act apply to life insurance policies issued or renewed**
 27 **on or after the effective date of this 2011 Act.**

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