

Beneficiaries’ Bill of Rights

This Act defines a “Retained Asset Account” as “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.” The legislation precludes insurers from using a retained asset account as the mode of settlement of payment to a life insurance beneficiary 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.

The Act requires insurers to inform a beneficiary about the right to receive a lump-sum payment of life insurance proceeds in the form of a bank check or similar other immediate full payment of benefits. It requires insurers to disclose all payment options available to beneficiaries, in written or electronic format, upon the distribution of anything other than a lump-sum payment of life insurance proceeds. The bill sets forth specific disclosure requirements upon the use of a retained asset account rather than a lump-sum payment.

It establishes annual insurer reporting requirements to the department of insurance about retained asset accounts. The legislation requires all marketing materials, disclosure statements, and supplemental contract forms used in connection with retained asset accounts to be filed with the department of insurance prior to their use. The Act authorizes the commissioner to disapprove any materials, statements, or forms that are inconsistent with the provisions of the section or are otherwise untrue, unfair, deceptive, false, or misleading.

The legislation requires insurers to return any balance held in a retained asset account to the beneficiary if no funds are withdrawn from the account, or if no affirmative directive has been provided to the insurer by the beneficiary, during any continuous three-year period.

Submitted as:

Kentucky

[HB 309](#)

Status: Enacted into law in 2011.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “The Beneficiaries’ Bill of Rights Act.”

2

3 Section 2. [*Definitions.*]

4 (1) As used in this section, “retained asset account” means any mechanism whereby the
5 settlement of proceeds payable under a life insurance policy, including but not limited to the
6 payment of cash surrender value, is accomplished by the insurer or an entity acting on behalf of the
7 insurer depositing the proceeds into an account where those proceeds are retained by the insurer,
8 pursuant to a supplementary contract not involving annuity benefits.

9 (2) (a) An insurer may not use a retained asset account as the mode of settlement unless
10 the insurer discloses the use of a retained asset account to the beneficiary or the beneficiary’s legal
11 representative prior to the transfer of life insurance proceeds to a retained asset account.

12 (b) A beneficiary shall be informed, prior to the distribution of any life insurance
13 proceeds, of his or her right to receive a lump-sum payment of life insurance proceeds in the form of
14 a bank check or other form of immediate full payment of benefits.

15 (3) (a) A complete listing and clear explanation of all life insurance proceeds payment
16 options available to the beneficiary shall accompany, in written or electronic format, the use of a
17 retained asset account. The complete listing and clear explanation of life insurance proceeds
18 payment options shall accompany the disclosure required by subsection (2)(b) of this section.

19 (b) Pursuant to paragraph (a) of this subsection, the use of a retained asset account
20 shall require the following to be included in the complete listing and clear explanation disclosure:

21 1. The recommendation to consult a tax, investment, or other financial advisor
22 regarding tax liability and investment options;

23 2. The initial interest rate, the circumstances and time frames under which
24 interest rates may change, and any dividends and other gains that may be paid or distributed to the
25 account holder;

26 3. The custodian of the funds or assets of the account;

27 4. The coverage guaranteed by the Federal Deposit Insurance Corporation
28 (FDIC), if any, and the amount of the coverage;

29 5. The limitations, if any, on the number or amount of withdrawals or transfers
30 of funds from the account, including any minimum or maximum withdrawal amounts for payment of
31 life insurance proceeds;

32 6. The delays, if any, that the account holder may encounter in completing
33 authorized transactions and the anticipated duration of such delays;

34 7. The services provided for a fee, including a list of the fees and the method
35 of their calculation;

36 8. The nature and frequency of statements of account;

37 9. The payment of some or all of the life insurance proceeds may be by the
38 delivery of checks, drafts, or other instruments to access the available funds;

39 10. The entire life insurance proceeds are available to the account holder by
40 the use of [one (1)] check, draft, or other instrument;

41 11. The insurer or a related party may derive income, in addition to any fees
42 charged on the account, from the total gains received on the investment of the balance of funds in the
43 account;

44 12. The telephone number, address, and other contact information, including a
45 Web site address, to obtain additional information regarding the account; and

46 13. The following statement, "FOR FURTHER INFORMATION, PLEASE
47 CONTACT YOUR STATE DEPARTMENT OF INSURANCE."

48 (c) The writings produced to satisfy the requirements of this subsection shall be
49 written in plain language and printed in bold in no smaller than a [twelve (12) point] font.

50 (4) (a) Insurers shall, on at least an annual basis, report the following information to the
51 [department of insurance]:

52 1. The number and dollar amount of retained asset accounts:

53 a. In force at the beginning of the year;

54 b. Issued or added during the year;

55 c. Closed or withdrawn during the year;

56 d. In force at the end of the year; and

57 e. That are transferred annually pursuant to [insert citation];

58 2. The dollar amount of investment earnings or interest credited to retained
59 asset accounts during the year;

60 3. The dollar amount of fees and other charges assessed during the year;

- 61 4. A narrative description of how the retained asset accounts are structured.
62 The description shall include:
- 63 a. All of the interest rates paid to retained asset account holders during
64 the reporting year, as well as the number of times changes were made to interest rates during the
65 reporting year;
 - 66 b. A list of all applicable fees charged by the reporting entity directly
67 or indirectly associated with the retained asset accounts; and
 - 68 c. Whether the retained asset accounts were the default method for
69 satisfying life insurance claims;
- 70 5. The number and dollar amount of retained asset accounts in force at the end
71 of the current year as compared to the prior year segregated by the following ages of the outstanding
72 retained asset accounts:
- 73 a. [Zero (0) to twelve (12) months];
 - 74 b. [Thirteen (13) to twenty-four (24) months];
 - 75 c. [Twenty-five (25) to thirty-six (36) months];
 - 76 d. [Thirty-seven (37) to forty-eight (48) months];
 - 77 e. [Forty-nine (49) to sixty (60) months]; and
 - 78 f. [Greater than sixty (60) months];
- 79 6. The identity of any entity or financial institution that administers retained
80 asset accounts on behalf of the insurer; and
- 81 7. Any other information relating to retained asset accounts as requested or
82 required by the [commissioner of the department of insurance].
- 83 (b) All marketing materials, disclosure statements, and supplemental contract forms
84 utilized in connection with retained asset accounts shall be filed with the [department of insurance]
85 prior to their use. The [commissioner] shall disapprove any materials, statements, or forms submitted
86 under this section that are inconsistent with subsection (3) of this section or are otherwise untrue,
87 unfair, deceptive, false, or misleading.
- 88 (5) An insurer shall immediately return any remaining balance held in a retained asset
89 account to the beneficiary when the account becomes inactive. A retained asset account shall
90 become inactive for purposes of this subsection if no funds are withdrawn from the account, or if no
91 affirmative directive has been provided to the insurer by the beneficiary, during any continuous
92 [three (3)] year period.
- 93 (6) The [commissioner] may promulgate administrative regulations implementing this
94 section.

95
96 Section 3. [*Severability.*] [Insert severability clause.]

97
98 Section 4. [*Repealer.*] [Insert repealer clause.]

99
100 Section 5. [*Effective Date.*] [Insert effective date.]