



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

ADVISORY LETTER 2014-04

TO: ALL LIFE AND ANNUITY INSURERS LICENSED IN LOUISIANA
FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE
RE: USE OF DEATH MASTER FILE
DATE: SEPTEMBER 5, 2014

The purpose of Advisory Letter 2014-04 is to advise all life and annuity insurers licensed in Louisiana regarding use of the Social Security Administration's Death Master File ("DMF").

As a result of multi-state audits, there have been agreements entered into by some life insurance companies who have previously used the DMF "asymmetrically," whereby these companies have voluntarily agreed to use the DMF retroactively to search for deceased insureds. The Louisiana Department of Insurance (LDI) is aware of these agreements and the ongoing activity among state treasurers and other unclaimed property administrators, state insurance regulators, the National Association of Insurance Commissioners (NAIC), the National Conference of Insurance Legislators (NCOIL) and legislators in a number of states, regarding use of the DMF. In light of this activity, the LDI acknowledges that the positions, actions, settlement agreements, and legislation by different state agencies and legislators have resulted in significant uncertainty and confusion in the industry regarding whether, when, and in what states, use of the DMF is or is not required.

At present, Louisiana life insurance companies are under no statutory obligation to search the Social Security Administration's Death Master File or any other database or service that is similar to the DMF, for determining that a person has reportedly died. Currently, there are decisions by the courts of several states that have considered the issue and found no general obligation on the part of life insurers to search for deceased insureds, whether using the DMF or otherwise. Thus, the LDI acknowledges that a life or annuity insurer is not obligated to search the DMF which is consistent with the findings of these court decisions.

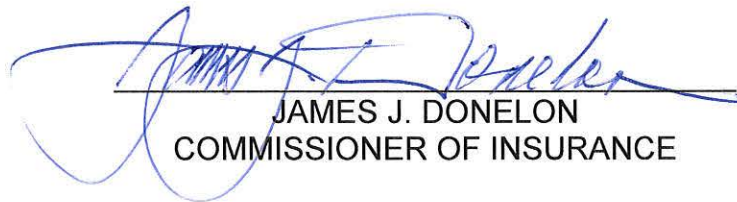
The Louisiana Insurance Code identifies certain acts or practices within the insurance industry as being unfair or deceptive. La. R.S. 22:1964(14)(f) provides that it is an unfair or deceptive act or practice when, in the settlement of claims, an insurer is

“[n]ot attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.”

In light of that statutory obligation, the LDI advises all life and annuity insurers licensed in Louisiana that an obligation to compare an insurer’s in-force life insurance policies to the DMF may exist if an insurer previously used the DMF to determine whether to stop payments in connection with its annuities (i.e., the insurer engages in “asymmetric” use of the DMF).

Questions regarding Advisory Letter No. 2014-04 should be directed to the Louisiana Department of Insurance, Division of Life and Annuities, at (225) 342-1226.

Baton Rouge, Louisiana, this 5th day of September, 2014.



JAMES J. DONELON
COMMISSIONER OF INSURANCE