

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

|                       |               |       |
|-----------------------|---------------|-------|
| ADOPTED               | <u>      </u> | (Y/N) |
| ADOPTED AS AMENDED    | <u>      </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u>      </u> | (Y/N) |
| FAILED TO ADOPT       | <u>      </u> | (Y/N) |
| WITHDRAWN             | <u>      </u> | (Y/N) |
| OTHER                 | <u>      </u> |       |

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1 Committee/Subcommittee hearing bill: Regulatory Affairs  
2 Committee

3 Representative Hager offered the following:  
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5 **Amendment 1 (with title amendment)**

6 Remove lines 111-170 and insert:

7 (8) (a) Notwithstanding any other provision of law, an  
8 insurer shall compare the records of its insureds' life or  
9 endowment insurance policies, annuity contracts that provide a  
10 death benefit, and retained asset accounts that were in force at  
11 any time on or after January 1, 1992, against the United States  
12 Social Security Administration Death Master File once to  
13 determine if the death of an insured, an annuitant or a retained  
14 asset account holder is indicated, and shall thereafter use the  
15 Death Master File update files for future comparisons. The  
16 comparisons must use the name and social security number or date  
17 of birth of the insured, annuitant, or retained asset account

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18 holder. The comparisons must be made on at least an annual basis  
19 before August 31 of each year. If an insurer performs such  
20 comparisons regarding its annuities or other books of business  
21 more frequently than once a year, the insurer must also make a  
22 comparison regarding its life insurance policies, annuity  
23 contracts that provide a death benefit, and retained asset  
24 accounts at the same frequency as is made regarding its  
25 annuities or other books or lines of business. An insurer may  
26 perform the comparisons required by this paragraph using any  
27 database or service that the department determines is at least  
28 as comprehensive as the United States Social Security  
29 Administration Death Master File for the purpose of indicating  
30 that a person has died.

31 (b) However, an insurer that meets one of the following  
32 criteria as of June 30, 2016, shall conduct the comparison in  
33 paragraph (a) to all in force policies:

34 1. Has entered into a regulatory settlement agreement with  
35 the Office of Insurance Regulation; or

36 2. Has received a targeted market conduct examination  
37 report issued by the Office of Insurance Regulation, regarding  
38 claims handling practices and the use of the Death Master File,  
39 with no findings of violations of law.

40 (c) An insured, an annuitant, or a retained asset account  
41 holder is presumed deceased if the date of his or her death is  
42 indicated by the comparison required under paragraph (a), unless  
43 the insurer has in its records competent and substantial

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44 evidence that the person is living, including, but not limited  
45 to, a contact made by the insurer with such person or his or her  
46 legal representative. The insurer shall account for common  
47 variations in data and for any partial names, social security  
48 numbers, dates of birth, and addresses of the insured, the  
49 annuitant, or the retained asset account holder which would  
50 otherwise preclude an exact match.

51 (d) For purposes of this section, a policy, an annuity  
52 contract, or a retained asset account is deemed to be in force  
53 if it has not lapsed, has not been cancelled, or has not been  
54 terminated at the time of death of the insured, the annuitant,  
55 or the retained asset account holder.

56 (e) This subsection does not apply to an insurer with  
57 respect to benefits payable under:

58 1. An annuity that is issued in connection with an  
59 employment-based plan subject to the Employee Retirement Income  
60 Security Act of 1974 or that is issued to fund an employment-  
61 based retirement plan, including any deferred compensation plan.

62 2. A policy of credit life or accidental death insurance.

63 3. A joint and survivor annuity contract, if an annuitant  
64 is still living.

65 4. A policy issued to a group master policy owner for which  
66 the insurer does not perform recordkeeping functions. As used in  
67 this subparagraph, the term "recordkeeping" means those  
68 circumstances under which the insurer has agreed through a group  
69 policyholder to be responsible for obtaining, maintaining, and

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70 administering, in its own or its agents' systems, information  
71 about each individual insured under a group insurance policy or  
72 a line of coverage thereunder, including at least the following:

73 a. The social security number, or name and date of birth;

74 b. Beneficiary designation information;

75 c. Coverage eligibility;

76 d. The benefit amount; and

77 e. Premium payment status.

78 5. Any policy of certificate of life insurance that is  
79 assigned to a person licensed under s. 497.452 to fund a preneed  
80 funeral merchandise or service contract.

81 (9) No later than 120 days after learning of the death of  
82 an insured, an annuitant, or a retained asset account holder  
83 through a comparison under subsection (8), an insurer shall:

84 (a) Complete and document an effort to confirm the death of  
85 the insured, annuitant, or retained asset account holder against  
86 other available records and information.

87 (b) Review its records to determine whether the insured,  
88 annuitant, or retained asset account holder purchased other  
89 products from the insurer.

90 (c) Determine whether benefits may be due under a policy,  
91 an annuity, or a retained asset account.

92 (d) Complete and document an effort to locate and contact  
93 the beneficiary or authorized representative under a policy, an  
94 annuity, or a retained asset account, if such person has not

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95 communicated with the insurer before the expiration of the 120-  
96 day period. The effort must include:

97 1. Sending to the beneficiary or authorized representative  
98 information concerning the claim process of the insurer.

99 2. Notice of any requirement to provide a certified  
100 original or copy of the death certificate, if applicable under  
101 the policy, annuity, or retained asset account.

102 (10) An insurer may, to the extent permitted by law,  
103 disclose the minimum necessary personal information about an  
104 insured, an annuitant, a retained asset account owner, or a  
105 beneficiary to an individual or entity reasonably believed by  
106 the insurer to possess the ability to assist the insurer in  
107 locating the beneficiary or other individual or entity that is  
108 entitled to payment of the claim proceeds.

109 (11) An insurer, or any agent or third party that is  
110 engages or that works on its behalf, may not charge insureds,  
111 annuitants, retained asset account holders, beneficiaries, or  
112 the estates of insureds, annuitants, retained asset account  
113 holders, or the beneficiaries of an estate any fees or costs  
114 associated with any search, verification, claim, or delivery of  
115 funds conducted pursuant to this section.

116 Section 2. The amendments made by this act are remedial in  
117 nature and apply retroactively. Fines, penalties, or additional  
118 interest, pursuant to this chapter, may not be imposed due to  
119 the failure to report and remit an unclaimed life or an  
120 endowment policy, a retained asset account, or an annuity

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121 contract with a death benefit if any unclaimed life or endowment  
122 insurance policy, retained asset account, or annuity contract  
123 proceeds are reported and remitted to the Department of  
124 Financial Services on or before May 1, 2021.

125 Section 3. This act shall take effect upon becoming a law.  
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128 **T I T L E A M E N D M E N T**

129 Remove lines 9-24 and insert:

130 requiring an insurer to compare records of certain insurance  
131 policies, annuity contracts, and retained asset accounts of its  
132 insureds against the United States Social Security  
133 Administration Death Master File or a certain database or  
134 service to determine if a death is indicated and to update  
135 records; providing requirements for the comparison; providing  
136 for a presumption of death for certain individuals; providing  
137 exceptions; requiring an insurer to account for certain  
138 variations in data and partial information; providing the  
139 circumstances under which a policy, a contract, or an account is  
140 deemed to be in force; providing applicability; defining a term;  
141 requiring an insurer to follow certain procedures after learning  
142 of a death through a specified comparison; authorizing an  
143 insurer to disclose certain personal information to specified  
144 persons for certain purposes; prohibiting an insurer and  
145 specified entities from charging fees and costs associated with  
146 certain activities; conforming provisions to changes made by the

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Bill No. HB 1041 (2016)

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147 | act; providing retroactive applicability; providing an effective  
148 | date.