

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Stark offered the following:

2
3 **Substitute Amendment for Amendment (771721) (with title**
4 **amendment)**

5 Remove lines 122-227 and insert:

6 any time on or after January 1, 2011, against the United States
7 Social Security Administration Death Master File once to
8 determine whether the death of an insured, an annuitant, or a
9 retained asset account holder is indicated and shall thereafter
10 use the Death Master File update files for future comparisons.
11 The comparisons must use the name and social security number or
12 date of birth of the insured, the annuitant, or the retained
13 asset account holder. The comparisons must be made on at least
14 an annual basis before August 31 of each year. If an insurer

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15 performs such comparisons regarding its annuities or other books
16 of business more frequently than once a year, the insurer must
17 also make comparisons regarding its life insurance policies,
18 annuity contracts that provide a death benefit, and retained
19 asset accounts at the same frequency as is made regarding its
20 annuities or other books or lines of business. An insurer may
21 perform the comparisons required by this paragraph using any
22 database or service that the department determines is at least
23 as comprehensive as the United States Social Security
24 Administration Death Master File for the purpose of indicating
25 that a person has died.

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

29 1. The insurer has entered into a regulatory settlement
30 agreement with the Office of Insurance Regulation; or

31 2. The insurer has received a targeted market conduct
32 examination report issued by the Office of Insurance Regulation
33 regarding claims-handling practices and the use of the Death
34 Master File with no findings of violations of law.

35 (c) An insured, an annuitant, or a retained asset account
36 holder is presumed deceased if the date of his or her death is
37 indicated by the comparison required under paragraph (a) unless
38 the insurer has in its records competent and substantial
39 evidence that the person is living, including, but not limited
40 to, a contact made by the insurer with such person or his or her

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41 legal representative. The insurer shall account for common
42 variations in data and for any partial names, social security
43 numbers, dates of birth, and addresses of the insured, the
44 annuitant, or the retained asset account holder which would
45 otherwise preclude an exact match.

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

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

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

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

58 3. A joint and survivor annuity contract if an annuitant
59 is still living.

60 4. A policy issued to a group master policy owner for
61 which the insurer does not perform recordkeeping functions. For
62 purposes of this subparagraph, the term "recordkeeping" means
63 those circumstances under which the insurer has agreed through a
64 group policyholder to be responsible for obtaining, maintaining,
65 and administering, in its own or its agents' systems,
66 information about each individual insured under a group

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67 insurance policy or a line of coverage thereunder, including at
68 least the following:

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

70 b. Beneficiary designation information;

71 c. Coverage eligibility;

72 d. The benefit amount; and

73 e. Premium payment status.

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

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

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

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

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

88 (d) Complete and document an effort to locate and contact
89 the beneficiary or authorized representative under a policy, an
90 annuity, or a retained asset account if such person has not
91 communicated with the insurer before the expiration of the 120-
92 day period. The effort must include:

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93 1. Sending to the beneficiary or authorized representative
94 information concerning the claim process of the insurer.

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

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

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

112 Section 2. Subsection (1) of section 717.1381, Florida
113 Statutes, is amended to read:

114 717.1381 Void unclaimed property powers of attorney and
115 purchase agreements.—

116 (1) Protecting the interests of owners of unclaimed
117 property is declared to be the public policy of this state. It
118 is in the best interests of the owners of unclaimed property

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119 that they have the opportunity to receive the full amount of the
120 unclaimed property returned to them without deduction of any
121 fees. Further, it is specifically recognized that the
122 Legislature has mandated and the state has an obligation to make
123 a meaningful and active effort to notify owners concerning their
124 unclaimed property. The department shall use no more than 5
125 percent of all funds received from the sale of unclaimed
126 property each year to fund a program to make a meaningful and
127 active effort to locate and notify the owners of unclaimed
128 property. The state recognizes that this policy and obligation
129 cannot be fulfilled without providing the state with the first
130 opportunity to notify the owners of unclaimed property that they
131 may file a claim for their property with the department. In
132 furtherance of this policy and obligation:

133 (a) Any oral or written agreement or power of attorney for
134 compensation or gain or in the expectation of compensation or
135 gain, that includes an unclaimed property account valued at more
136 than \$250 which was made on or before 45 days after the holder
137 or examination report was processed and added to the unclaimed
138 property database, subsequent to a determination that the report
139 was accurate and that the reported property was the same as the
140 remitted property, is void as contrary to public policy.

141 (b) Any oral or written purchase agreement that includes
142 an unclaimed property account valued at more than \$250, owned by
143 another and made on or before 45 days after the holder or
144 examination report was processed and added to the unclaimed

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145 property database, subsequent to a determination that the report
146 was accurate and that the reported property was the same as the
147 remitted property, is void as contrary to public policy.
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150 **T I T L E A M E N D M E N T**

151 Between lines 29 and 30, insert:
152 amending s. 717.1381, F.S.; limiting the amount of
153 certain funds that the Department of Financial
154 Services uses to make a meaningful and active effort
155 to locate and notify the owners of unclaimed property;

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