

HB 1041

2016

1 A bill to be entitled

2 An act relating to unclaimed property; amending s.
3 717.107, F.S.; revising a presumption of when funds
4 held or owing under a matured or terminated life or
5 endowment insurance policy or annuity contract are
6 unclaimed; revising a condition of when certain
7 insurance policies or annuity contracts are deemed
8 matured and the proceeds are due and payable;
9 requiring an insurer to perform a comparison of
10 certain insurance policies, annuity contracts, and
11 retained asset accounts of its insureds against the
12 United States Social Security Administration Death
13 Master File to determine if a death is indicated;
14 providing when such comparisons must be made;
15 providing for a rebuttable presumption of death of
16 certain individuals; requiring an insurer to account
17 for certain variations in data and partial
18 information; providing applicability; providing an
19 exception; defining a term; prohibiting an insurer and
20 specified entities from charging fees and costs
21 associated with certain activities; conforming
22 provisions to changes made by the act; providing
23 retroactive applicability; providing an effective
24 date.

25
26 Be It Enacted by the Legislature of the State of Florida:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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Section 1. Section 717.107, Florida Statutes, is amended to read:

717.107 Funds owing under life insurance policies, annuity contracts, and retained asset accounts; fines, penalties, and interest; United States Social Security Administration Death Master File.-

(1) Funds held or owing under any life or endowment insurance policy or annuity contract which has matured or terminated are presumed unclaimed if unclaimed for more than 5 years after the date of death of the insured, annuitant, or retained asset account holder ~~funds became due and payable as established from the records of the insurance company holding or owing the funds,~~ but property described in paragraph (3)(d) ~~(3)(b)~~ is presumed unclaimed if such property is not claimed for more than 2 years. The amount presumed unclaimed shall include any amount due and payable under s. 627.4615.

(2) If a person other than the insured, ~~or~~ annuitant, or retained asset account holder is entitled to the funds and no address of the person is known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured, ~~the~~ annuitant, or the retained asset account holder according to the records of the company.

53 (3) For purposes of this chapter, a life or endowment
 54 insurance policy or annuity contract not matured by actual proof
 55 of the death of the insured, the ~~or~~ annuitant, or the retained
 56 asset account holder according to the records of the company is
 57 deemed matured and the proceeds due and payable if any of the
 58 following applies:

59 (a) The company knows that the insured, the ~~or~~ annuitant,
 60 or the retained asset account holder has died. ~~;~~ ~~or~~

61 (b) A presumption of death made in accordance with
 62 paragraph (8) (b) has not been rebutted.

63 (c) The policy or contract has reached its maturity date.

64 (d) ~~(b)~~ 1. The insured has attained, or would have attained
 65 if he or she were living, the limiting age under the mortality
 66 table on which the reserve is based;

67 2. The policy was in force at the time the insured
 68 attained, or would have attained, the limiting age specified in
 69 subparagraph 1.; and

70 3. Neither the insured nor any other person appearing to
 71 have an interest in the policy within the preceding 2 years,
 72 according to the records of the company, has assigned,
 73 readjusted, or paid premiums on the policy; subjected the policy
 74 to a loan; corresponded in writing with the company concerning
 75 the policy; or otherwise indicated an interest as evidenced by a
 76 memorandum or other record on file prepared by an employee of
 77 the company.

78 (4) For purposes of this chapter, the application of an

79 automatic premium loan provision or other nonforfeiture
 80 provision contained in an insurance policy does not prevent the
 81 policy from being matured or terminated under subsection (1) if
 82 the insured has died or the insured or the beneficiaries of the
 83 policy otherwise have become entitled to the proceeds thereof
 84 before the depletion of the cash surrender value of a policy by
 85 the application of those provisions.

86 (5) If the laws of this state or the terms of the life
 87 insurance policy require the company to give notice to the
 88 insured or owner that an automatic premium loan provision or
 89 other nonforfeiture provision has been exercised and the notice,
 90 given to an insured or owner whose last known address according
 91 to the records of the company is in this state, is
 92 undeliverable, the company shall make a reasonable search to
 93 ascertain the policyholder's correct address to which the notice
 94 must be mailed.

95 (6) Notwithstanding any other provision of law, if the
 96 company learns of the death of the insured, the ~~or~~ annuitant, or
 97 the retained asset account holder and the beneficiary has not
 98 communicated with the insurer within 4 months after the death,
 99 the company shall take reasonable steps to pay the proceeds to
 100 the beneficiary.

101 (7) Commencing 2 years after July 1, 1987, every change of
 102 beneficiary form issued by an insurance company under any life
 103 or endowment insurance policy or annuity contract to an insured
 104 or owner who is a resident of this state must request the

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105 following information:

106 (a) The name of each beneficiary, or if a class of
107 beneficiaries is named, the name of each current beneficiary in
108 the class.

109 (b) The address of each beneficiary.

110 (c) The relationship of each beneficiary to the insured.

111 (8) (a) Notwithstanding any other provision of law, an
112 insurer shall perform a comparison of its insureds' life or
113 endowment insurance policies, annuity contracts that provide a
114 death benefit, and retained asset accounts that were in force at
115 any time on or after January 1, 1992, against the United States
116 Social Security Administration Death Master File to determine if
117 the death of an insured, an annuitant, or a retained asset
118 account holder is indicated. The comparison must be made on at
119 least an annual basis before August 31 of each year. If an
120 insurer performs such a comparison regarding its annuities or
121 other books of business more frequently than once a year, the
122 insurer must also make a comparison regarding its life insurance
123 policies, annuity contracts that provide a death benefit, and
124 retained asset accounts at the same frequency as is made
125 regarding its annuities or other books or lines of business.

126 (b) There is a rebuttable presumption that an insured, an
127 annuitant, or a retained asset account holder is deceased if the
128 date of the insured's, annuitant's, or retained asset account
129 holder's death is indicated on the United States Social Security
130 Administration Death Master File. The insurer shall account for

131 common variations in data and for any partial names, social
132 security numbers, dates of birth, and addresses of the insured,
133 the annuity owner, or the retained asset account holder which
134 would otherwise preclude an exact match.

135 (c) For purposes of this section, a policy, a contract, or
136 a retained asset account is deemed to be in force if it has not
137 lapsed, has not been cancelled, or has not been terminated at
138 the time of death of the insured, the annuity owner, or the
139 retained asset account holder.

140 (d) This subsection does not apply to an annuity contract
141 that is issued in connection with an employment-based plan
142 subject to the Employee Retirement Income Security Act of 1974
143 or that is issued to fund an employment-based retirement plan,
144 including any deferred compensation plans.

145 (9) An insurer is not required to confirm the possible
146 death of an insured with respect to benefits payable under
147 accidental death or when the insurer does not perform
148 recordkeeping functions. For purposes of this subsection, the
149 term "recordkeeping" means maintaining, or being legally or
150 contractually responsible for maintaining, either directly or
151 through a third party, the information necessary to process a
152 claim or having access to information necessary to process a
153 claim.

154 (10) An insurer, or any agent or third party that it
155 engages or that works on its behalf, may not charge insureds,
156 annuity owners, retained asset account holders, beneficiaries,

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157 or the estates of insureds, annuity owners, retained asset
158 account holders, or the beneficiaries of an estate any fees or
159 costs associated with any search, verification, claim, or
160 delivery of funds conducted pursuant to this section.

161 Section 2. The amendments made by this act are remedial in
162 nature and apply retroactively. Fines, penalties, or additional
163 interest may not be imposed due to the failure to report and
164 remit an unclaimed life or an endowment insurance policy, a
165 retained asset account, or an annuity contract with a death
166 benefit if any unclaimed life or endowment insurance policy,
167 retained asset account, or annuity contract proceeds are
168 reported and remitted to the Department of Financial Services on
169 or before May 1, 2021.

170 Section 3. This act shall take effect upon becoming a law.