

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 conditions 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 compare records of certain
10 insurance policies, annuity contracts, and retained
11 asset accounts against the United States Social
12 Security Administration Death Master File or a certain
13 database or service to determine whether a death is
14 indicated and to update certain records; providing
15 requirements for the comparison; providing for a
16 presumption of death for certain individuals;
17 providing exceptions; requiring an insurer to account
18 for certain variations in data and partial
19 information; providing the circumstances under which a
20 policy, a contract, or an account is deemed to be in
21 force; providing applicability; defining the term
22 "recordkeeping"; requiring an insurer to follow
23 certain procedures after learning of a death through a
24 specified comparison; authorizing an insurer to
25 disclose certain personal information to specified
26 persons or entities for certain purposes; prohibiting

27 an insurer and specified entities from charging fees
 28 and costs associated with certain activities;
 29 conforming provisions to changes made by the act;
 30 providing retroactive applicability; providing an
 31 effective date.

32
 33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Section 717.107, Florida Statutes, is amended
 36 to read:

37 717.107 Funds owing under life insurance policies, annuity
 38 contracts, and retained asset accounts; fines, penalties, and
 39 interest; United States Social Security Administration Death
 40 Master File.-

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

51 (2) If a person other than the insured, the ~~or~~ annuitant,
 52 or the retained asset account holder is entitled to the funds

53 and no address of the person is known to the company or it is
 54 not definite and certain from the records of the company who is
 55 entitled to the funds, it is presumed that the last known
 56 address of the person entitled to the funds is the same as the
 57 last known address of the insured, the ~~or~~ annuitant, or the
 58 retained asset account holder according to the records of the
 59 company.

60 (3) For purposes of this chapter, a life or endowment
 61 insurance policy or annuity contract not matured by actual proof
 62 of the death of the insured, the ~~or~~ annuitant, or the retained
 63 asset account holder according to the records of the company is
 64 deemed matured and the proceeds due and payable if any of the
 65 following applies:

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

68 (b) A presumption of death made in accordance with
 69 paragraph (8) (c) has not been rebutted.

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

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

74 2. The policy was in force at the time the insured
 75 attained, or would have attained, the limiting age specified in
 76 subparagraph 1.; and

77 3. Neither the insured nor any other person appearing to
 78 have an interest in the policy within the preceding 2 years,

79 | according to the records of the company, has assigned,
80 | readjusted, or paid premiums on the policy; subjected the policy
81 | to a loan; corresponded in writing with the company concerning
82 | the policy; or otherwise indicated an interest as evidenced by a
83 | memorandum or other record on file prepared by an employee of
84 | the company.

85 | (4) For purposes of this chapter, the application of an
86 | automatic premium loan provision or other nonforfeiture
87 | provision contained in an insurance policy does not prevent the
88 | policy from being matured or terminated under subsection (1) if
89 | the insured has died or the insured or the beneficiaries of the
90 | policy otherwise have become entitled to the proceeds thereof
91 | before the depletion of the cash surrender value of a policy by
92 | the application of those provisions.

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

102 | (6) Notwithstanding any other provision of law, if the
103 | company learns of the death of the insured, the ~~or~~ annuitant, or
104 | the retained asset account holder and the beneficiary has not

105 | communicated with the insurer within 4 months after the death,
106 | the company shall take reasonable steps to pay the proceeds to
107 | the beneficiary.

108 | (7) Commencing 2 years after July 1, 1987, every change of
109 | beneficiary form issued by an insurance company under any life
110 | or endowment insurance policy or annuity contract to an insured
111 | or owner who is a resident of this state must request the
112 | following information:

113 | (a) The name of each beneficiary, or if a class of
114 | beneficiaries is named, the name of each current beneficiary in
115 | the class.

116 | (b) The address of each beneficiary.

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

118 | (8) (a) Notwithstanding any other provision of law, an
119 | insurer shall compare the records of its insureds' life or
120 | endowment insurance policies, annuity contracts that provide a
121 | death benefit, and retained asset accounts that were in force at
122 | any time on or after January 1, 1992, against the United States
123 | Social Security Administration Death Master File once to
124 | determine whether the death of an insured, an annuitant, or a
125 | retained asset account holder is indicated and shall thereafter
126 | use the Death Master File update files for future comparisons.
127 | The comparisons must use the name and social security number or
128 | date of birth of the insured, the annuitant, or the retained
129 | asset account holder. The comparisons must be made on at least
130 | an annual basis before August 31 of each year. If an insurer

131 performs such comparisons regarding its annuities or other books
132 of business more frequently than once a year, the insurer must
133 also make comparisons regarding its life insurance policies,
134 annuity contracts that provide a death benefit, and retained
135 asset accounts at the same frequency as is made regarding its
136 annuities or other books or lines of business. An insurer may
137 perform the comparisons required by this paragraph using any
138 database or service that the department determines is at least
139 as comprehensive as the United States Social Security
140 Administration Death Master File for the purpose of indicating
141 that a person has died.

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

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

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

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

157 legal representative. The insurer shall account for common
158 variations in data and for any partial names, social security
159 numbers, dates of birth, and addresses of the insured, the
160 annuitant, or the retained asset account holder which would
161 otherwise preclude an exact match.

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

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

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

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

174 3. A joint and survivor annuity contract if an annuitant
175 is still living.

176 4. A policy issued to a group master policy owner for
177 which the insurer does not perform recordkeeping functions. For
178 purposes of this subparagraph, the term "recordkeeping" means
179 those circumstances under which the insurer has agreed through a
180 group policyholder to be responsible for obtaining, maintaining,
181 and administering, in its own or its agents' systems,
182 information about each individual insured under a group

183 insurance policy or a line of coverage thereunder, including at
 184 least the following:

- 185 a. The social security number, or name and date of birth;
- 186 b. Beneficiary designation information;
- 187 c. Coverage eligibility;
- 188 d. The benefit amount; and
- 189 e. Premium payment status.

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

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

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

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

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

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

209 1. Sending to the beneficiary or authorized representative
 210 information concerning the claim process of the insurer.

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

214 (10) An insurer may, to the extent permitted by law,
 215 disclose the minimum necessary personal information about an
 216 insured, an annuitant, a retained asset account owner, or a
 217 beneficiary to an individual or entity reasonably believed by
 218 the insurer to possess the ability to assist the insurer in
 219 locating the beneficiary or any other individual or entity that
 220 is entitled to payment of the claim proceeds.

221 (11) An insurer, or any agent or third party that it
 222 engages or that works on its behalf, may not charge insureds,
 223 annuitants, retained asset account holders, beneficiaries, or
 224 the estates of insureds, annuitants, retained asset account
 225 holders, or the beneficiaries of an estate any fees or costs
 226 associated with any search, verification, claim, or delivery of
 227 funds conducted pursuant to this section.

228 Section 2. The amendments made by this act are remedial in
 229 nature and apply retroactively. Fines, penalties, or additional
 230 interest, pursuant to chapter 717, Florida Statutes, may not be
 231 imposed due to the failure to report and remit an unclaimed life
 232 or an endowment insurance policy, a retained asset account, or
 233 an annuity contract with a death benefit if any unclaimed life
 234 or endowment insurance policy, retained asset account, or

CS/HB 1041

2016

235 | annuity contract proceeds are reported and remitted to the
236 | Department of Financial Services on or before May 1, 2021.

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