

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Hager offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

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, the annuitant, or

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15 the retained asset account holder funds became due and payable
16 as established from the records of the insurance company holding
17 or owing the funds, but property described in paragraph (3) (d)
18 ~~(3) (b)~~ is presumed unclaimed if such property is not claimed for
19 more than 2 years. The amount presumed unclaimed shall include
20 any amount due and payable under s. 627.4615.

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

30 (3) For purposes of this chapter, a life or endowment
31 insurance policy or annuity contract not matured by actual proof
32 of the death of the insured, the ~~or~~ annuitant, or the retained
33 asset account holder according to the records of the company is
34 deemed matured and the proceeds due and payable if any of the
35 following applies:

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

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

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

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

44 2. The policy was in force at the time the insured
45 attained, or would have attained, the limiting age specified in
46 subparagraph 1.; and

47 3. Neither the insured nor any other person appearing to
48 have an interest in the policy within the preceding 2 years,
49 according to the records of the company, has assigned,
50 readjusted, or paid premiums on the policy; subjected the policy
51 to a loan; corresponded in writing with the company concerning
52 the policy; or otherwise indicated an interest as evidenced by a
53 memorandum or other record on file prepared by an employee of
54 the company.

55 (4) For purposes of this chapter, the application of an
56 automatic premium loan provision or other nonforfeiture
57 provision contained in an insurance policy does not prevent the
58 policy from being matured or terminated under subsection (1) if
59 the insured has died or the insured or the beneficiaries of the
60 policy otherwise have become entitled to the proceeds thereof
61 before the depletion of the cash surrender value of a policy by
62 the application of those provisions.

63 (5) If the laws of this state or the terms of the life
64 insurance policy require the company to give notice to the
65 insured or owner that an automatic premium loan provision or
66 other nonforfeiture provision has been exercised and the notice,

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67 given to an insured or owner whose last known address according
68 to the records of the company is in this state, is
69 undeliverable, the company shall make a reasonable search to
70 ascertain the policyholder's correct address to which the notice
71 must be mailed.

72 (6) Notwithstanding any other provision of law, if the
73 company learns of the death of the insured, the ~~or~~ annuitant, or
74 the retained asset account holder and the beneficiary has not
75 communicated with the insurer within 4 months after the death,
76 the company shall take reasonable steps to pay the proceeds to
77 the beneficiary.

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

83 (a) The name of each beneficiary, or if a class of
84 beneficiaries is named, the name of each current beneficiary in
85 the class.

86 (b) The address of each beneficiary.

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

88 (8) (a) Notwithstanding any other provision of law, an
89 insurer shall compare the records of its insureds' life or
90 endowment insurance policies, annuity contracts that provide a
91 death benefit, and retained asset accounts that were in force at
92 any time on or after January 1, 1992, against the United States

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93 Social Security Administration Death Master File once to
94 determine whether the death of an insured, an annuitant, or a
95 retained asset account holder is indicated and shall thereafter
96 use the Death Master File update files for future comparisons.
97 The comparisons must use the name and social security number or
98 date of birth of the insured, the annuitant, or the retained
99 asset account holder. The comparisons must be made on at least
100 an annual basis before August 31 of each year. If an insurer
101 performs such comparisons regarding its annuities or other books
102 of business more frequently than once a year, the insurer must
103 also make comparisons regarding its life insurance policies,
104 annuity contracts that provide a death benefit, and retained
105 asset accounts at the same frequency as is made regarding its
106 annuities or other books or lines of business. An insurer may
107 perform the comparisons required by this paragraph using any
108 database or service that the department determines is at least
109 as comprehensive as the United States Social Security
110 Administration Death Master File for the purpose of indicating
111 that a person has died.

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

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

117 2. The insurer has received a targeted market conduct
118 examination report issued by the Office of Insurance Regulation

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119 regarding claims-handling practices and the use of the Death
120 Master File with no findings of violations of law.

121 (c) An insured, an annuitant, or a retained asset account
122 holder is presumed deceased if the date of his or her death is
123 indicated by the comparison required under paragraph (a) unless
124 the insurer has in its records competent and substantial
125 evidence that the person is living, including, but not limited
126 to, a contact made by the insurer with such person or his or her
127 legal representative. The insurer shall account for common
128 variations in data and for any partial names, social security
129 numbers, dates of birth, and addresses of the insured, the
130 annuitant, or the retained asset account holder which would
131 otherwise preclude an exact match.

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

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

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

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

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144 3. A joint and survivor annuity contract if an annuitant
145 is still living.

146 4. A policy issued to a group master policy owner for
147 which the insurer does not perform recordkeeping functions. For
148 purposes of this subparagraph, the term "recordkeeping" means
149 those circumstances under which the insurer has agreed through a
150 group policyholder to be responsible for obtaining, maintaining,
151 and administering, in its own or its agents' systems,
152 information about each individual insured under a group
153 insurance policy or a line of coverage thereunder, including at
154 least the following:

- 155 a. The social security number, or name and date of birth;
156 b. Beneficiary designation information;
157 c. Coverage eligibility;
158 d. The benefit amount; and
159 e. Premium payment status.

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

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

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

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

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

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

179 1. Sending to the beneficiary or authorized representative
180 information concerning the claim process of the insurer.

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

184 (10) An insurer may, to the extent permitted by law,
185 disclose the minimum necessary personal information about an
186 insured, an annuitant, a retained asset account owner, or a
187 beneficiary to an individual or entity reasonably believed by
188 the insurer to possess the ability to assist the insurer in
189 locating the beneficiary or any other individual or entity that
190 is entitled to payment of the claim proceeds.

191 (11) An insurer, or any agent or third party that it
192 engages or that works on its behalf, may not charge insureds,
193 annuitants, retained asset account holders, beneficiaries, or
194 the estates of insureds, annuitants, retained asset account

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195 holders, or the beneficiaries of an estate any fees or costs
196 associated with any search, verification, claim, or delivery of
197 funds conducted pursuant to this section.

198 Section 2. The amendments made by this act are remedial in
199 nature and apply retroactively. Fines, penalties, or additional
200 interest, pursuant to chapter 717, Florida Statutes, may not be
201 imposed due to the failure to report and remit an unclaimed life
202 or an endowment insurance policy, a retained asset account, or
203 an annuity contract with a death benefit if any unclaimed life
204 or endowment insurance policy, retained asset account, or
205 annuity contract proceeds are reported and remitted to the
206 Department of Financial Services on or before May 1, 2021.

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

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210 **T I T L E A M E N D M E N T**

211 Remove everything before the enacting clause and insert:

212 A bill to be entitled

213 An act relating to unclaimed property; amending s.

214 717.107, F.S.; revising a presumption of when funds

215 held or owing under a matured or terminated life or

216 endowment insurance policy or annuity contract are

217 unclaimed; revising conditions of when certain

218 insurance policies or annuity contracts are deemed

219 matured and the proceeds are due and payable;

220 requiring an insurer to compare records of certain

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221 insurance policies, annuity contracts, and retained
222 asset accounts against the United States Social
223 Security Administration Death Master File or a certain
224 database or service to determine whether a death is
225 indicated and to update certain records; providing
226 requirements for the comparison; providing for a
227 presumption of death for certain individuals;
228 providing exceptions; requiring an insurer to account
229 for certain variations in data and partial
230 information; providing the circumstances under which a
231 policy, a contract, or an account is deemed to be in
232 force; providing applicability; defining the term
233 "recordkeeping"; requiring an insurer to follow
234 certain procedures after learning of a death through a
235 specified comparison; authorizing an insurer to
236 disclose certain personal information to specified
237 persons or entities for certain purposes; prohibiting
238 an insurer and specified entities from charging fees
239 and costs associated with certain activities;
240 conforming provisions to changes made by the act;
241 providing retroactive applicability; providing an
242 effective date.

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