

By Senator Benacquisto

30-00996B-16

2016966\_\_

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:

27  
28       Section 1. Section 717.107, Florida Statutes, is amended to  
29 read:

30-00996B-16

2016966\_\_

30           717.107 Funds owing under life insurance policies, annuity  
31 contracts, and retained asset accounts; fines, penalties, and  
32 interest; United States Social Security Administration Death  
33 Master File.—

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

44           (2) If a person other than the insured, ~~or~~ annuitant, or  
45 retained asset account holder is entitled to the funds and no  
46 address of the person is known to the company or it is not  
47 definite and certain from the records of the company who is  
48 entitled to the funds, it is presumed that the last known  
49 address of the person entitled to the funds is the same as the  
50 last known address of the insured, the ~~or~~ annuitant, or the  
51 retained asset account holder according to the records of the  
52 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:

30-00996B-16

2016966\_\_

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

30-00996B-16

2016966\_\_

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  
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

30-00996B-16

2016966\_\_

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

30-00996B-16

2016966\_\_

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,  
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.