

By the Committee on Banking and Insurance; and Senators Benacquisto and Gaetz

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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 compare records of certain  
10 insurance policies, annuity contracts, and retained  
11 asset accounts of its insureds against the United  
12 States Social Security Administration Death Master  
13 File or a certain database or service to determine if  
14 a death is indicated; providing requirements for the  
15 comparison; providing for a presumption of death for  
16 certain individuals; providing an exception; requiring  
17 an insurer to account for certain variations in data  
18 and partial information; providing the circumstances  
19 under which a policy, a contract, or an account is  
20 deemed to be in force; providing applicability;  
21 defining a term; requiring an insurer to follow  
22 certain procedures after learning of a death through a  
23 specified comparison; authorizing an insurer to  
24 disclose certain personal information to specified  
25 persons for certain purposes; prohibiting an insurer  
26 and specified entities from charging fees and costs  
27 associated with certain activities; conforming  
28 provisions to changes made by the act; providing  
29 retroactive applicability; providing an effective  
30 date.  
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32 Be It Enacted by the Legislature of the State of Florida:

33  
34 Section 1. Section 717.107, Florida Statutes, is amended to  
35 read:

36 717.107 Funds owing under life insurance policies, annuity  
37 contracts, and retained asset accounts; fines, penalties, and  
38 interest; United States Social Security Administration Death  
39 Master File.—

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

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

59 (3) For purposes of this chapter, a life or endowment  
60 insurance policy or annuity contract not matured by actual proof

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61 of the death of the insured, the ~~or~~ annuitant, or the retained  
62 asset account holder according to the records of the company is  
63 deemed matured and the proceeds due and payable if any of the  
64 following applies:

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

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

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

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

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

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

84 (4) For purposes of this chapter, the application of an  
85 automatic premium loan provision or other nonforfeiture  
86 provision contained in an insurance policy does not prevent the  
87 policy from being matured or terminated under subsection (1) if  
88 the insured has died or the insured or the beneficiaries of the  
89 policy otherwise have become entitled to the proceeds thereof

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90 before the depletion of the cash surrender value of a policy by  
91 the application of those provisions.

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

101 (6) Notwithstanding any other provision of law, if the  
102 company learns of the death of the insured, the ~~or~~ annuitant, or  
103 the retained asset account holder and the beneficiary has not  
104 communicated with the insurer within 4 months after the death,  
105 the company shall take reasonable steps to pay the proceeds to  
106 the beneficiary.

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

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

115 (b) The address of each beneficiary.

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

117 (8) (a) Notwithstanding any other provision of law, an  
118 insurer shall compare the records of its insureds' life or

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119 endowment insurance policies, annuity contracts that provide a  
120 death benefit, and retained asset accounts that were in force at  
121 any time on or after January 1, 1992, against the United States  
122 Social Security Administration Death Master File to determine if  
123 the death of an insured, an annuitant, or a retained asset  
124 account holder is indicated. The comparison must use the name  
125 and social security number or date of birth of the insured,  
126 annuitant, or retained asset account holder. The comparison must  
127 be made on at least an annual basis before August 31 of each  
128 year. If an insurer performs such a comparison regarding its  
129 annuities or other books of business more frequently than once a  
130 year, the insurer must also make a comparison regarding its life  
131 insurance policies, annuity contracts that provide a death  
132 benefit, and retained asset accounts at the same frequency as is  
133 made regarding its annuities or other books or lines of  
134 business. An insurer may perform the comparison required by this  
135 paragraph using any database or service that the department  
136 determines is at least as comprehensive as the United States  
137 Social Security Administration Death Master File for the purpose  
138 of indicating that a person has died.

139 (b) An insured, an annuitant, or a retained asset account  
140 holder is presumed deceased if the date of his or her death is  
141 indicated by the comparison required under paragraph (a), unless  
142 the insurer has in its records competent and substantial  
143 evidence that the person is living, including, but not limited  
144 to, a contact made by the insurer with such person or his or her  
145 legal representative. The insurer shall account for common  
146 variations in data and for any partial names, social security  
147 numbers, dates of birth, and addresses of the insured, the

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148 annuitant, or the retained asset account holder which would  
149 otherwise preclude an exact match.

150 (c) For purposes of this section, a policy, an annuity  
151 contract, or a retained asset account is deemed to be in force  
152 if it has not lapsed, has not been cancelled, or has not been  
153 terminated at the time of death of the insured, the annuitant,  
154 or the retained asset account holder.

155 (d) This subsection does not apply to an insurer with  
156 respect to benefits payable under:

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

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

162 3. A joint and survivor annuity contract, if an annuitant  
163 is still living.

164 4. A policy issued to a group master policy owner for which  
165 the insurer does not perform recordkeeping functions. As used in  
166 this subparagraph, the term "recordkeeping" means those  
167 circumstances under which the insurer has agreed through a group  
168 policyholder to be responsible for obtaining, maintaining, and  
169 administering, in its own or its agents' systems, information  
170 about each individual insured under a group insurance policy or  
171 a line of coverage thereunder, including at least the following:

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

173 b. Beneficiary designation information;

174 c. Coverage eligibility;

175 d. The benefit amount; and

176 e. Premium payment status.

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

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

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

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

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

193 1. Sending to the beneficiary or authorized representative  
194 information concerning the claim process of the insurer.

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

198 (10) An insurer may, to the extent permitted by law,  
199 disclose the minimum necessary personal information about an  
200 insured, an annuitant, a retained asset account owner, or a  
201 beneficiary to an individual or entity reasonably believed by  
202 the insurer to possess the ability to assist the insurer in  
203 locating the beneficiary or another individual or entity that is  
204 entitled to payment of the claim proceeds.

205 (11) An insurer, or any agent or third party that it

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206 engages or that works on its behalf, may not charge insureds,  
207 annuitants, retained asset account holders, beneficiaries, or  
208 the estates of insureds, annuitants, retained asset account  
209 holders, or the beneficiaries of an estate any fees or costs  
210 associated with any search, verification, claim, or delivery of  
211 funds conducted pursuant to this section.

212 Section 2. The amendments made by this act are remedial in  
213 nature and apply retroactively. Fines, penalties, or additional  
214 interest may not be imposed due to the failure to report and  
215 remit an unclaimed life or an endowment insurance policy, a  
216 retained asset account, or an annuity contract with a death  
217 benefit if any unclaimed life or endowment insurance policy,  
218 retained asset account, or annuity contract proceeds are  
219 reported and remitted to the Department of Financial Services on  
220 or before May 1, 2021.

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