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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 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;

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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 to  
36 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

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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

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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.

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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

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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 is

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175 still living.

176 4. A policy issued to a group master policy owner for which  
177 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 of  
197 the insured, the annuitant, or the retained asset account holder  
198 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.

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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



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233 an annuity contract with a death benefit if any unclaimed life  
234 or endowment insurance policy, retained asset account, or  
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.