

Introduced by

Representatives Keiser, Kasper

Senators Klein, O'Connell

1 A BILL for an Act to create and enact a new chapter to title 26.1 of the North Dakota Century
2 Code, relating to unclaimed life insurance benefits; and to amend and reenact section
3 47-30.1-07 of the North Dakota Century Code, relating to the state's unclaimed property act.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new chapter to title 26.1 of the North Dakota Century Code is created and
6 enacted as follows:

7 **Definitions.**

8 As used in this chapter:

- 9 1. "Contract" means an annuity contract. The term does not include an annuity used to
10 fund an employment-based retirement plan or program in which the insurer is not
11 committed by terms of the annuity contract to pay death benefits to the beneficiaries of
12 specific plan participants.
- 13 2. "Death master file" means the United States social security administration's death
14 master file or any other database or service the commissioner has determined is at
15 least as comprehensive as the United States social security administration's death
16 master file for determining that an individual has reportedly died.
- 17 3. "Death master file match" means a search of the death master file or revised death
18 master file which results in a match of the social security number or of the name and
19 date of birth of an insured, annuity owner, or retained asset accountholder.
- 20 4. "Policy" means any policy or certificate of life insurance which provides a death
21 benefit. The term does not include:
- 22 a. A policy or certificate of life insurance which provides a death benefit under an
23 employee benefit plan subject to the federal Employee Retirement Income
24 Security Act of 1974 [Pub. L. 93-406; 29 U.S.C. 1002 et seq.];

- 1 b. A policy or certificate of life insurance which provides a death benefit under an
2 employee benefit plan under any federal employee benefit program;
3 c. A policy or certificate of life insurance which is used to fund a preneed funeral
4 contract or prearrangement; or
5 d. A policy or certificate of credit life or accidental death insurance.
6 5. "Revised death master file" means the names added to the death master file since the
7 insurer's most recent semiannual comparison required under this chapter.

8 **Insurer conduct.**

- 9 1. Within ninety days of the effective date of this Act, an insurer shall perform a
10 comparison of the insurer's insureds' in-force life insurance policies and retained asset
11 accounts against a death master file in order to identify potential matches of the
12 insurer's insureds. Semiannually, an insurer shall perform a comparison of the
13 insurer's insureds' in-force life insurance policies and retained asset accounts against
14 the revised death master file in order to identify the potential matches of the insurer's
15 insureds.
16 2. For each potential match identified as a result of a death master file or revised death
17 master file match, within ninety days of the match, the insurer shall:
18 a. Complete a good-faith effort, which the insurer shall document, to confirm the
19 death of the insured or retained asset accountholder against other available
20 records and information; and
21 b. Determine whether benefits are due in accordance with the applicable policy or
22 contract, and if benefits are due in accordance with the applicable policy or
23 contract the insurer shall:
24 (1) Use good-faith efforts, which the insurer shall document, to locate the
25 beneficiary or beneficiaries; and
26 (2) Provide the appropriate claims forms or instructions to the beneficiary or
27 beneficiaries to make a claim, including the need to provide an official death
28 certificate, if applicable under the policy or contract.
29 3. With respect to group life insurance, for each potential match identified as a result of a
30 death master file or revised death master file match, the insurer shall confirm the

- 1 possible death of an insured if the insurer maintains at least the following information
2 of those covered under a policy or certificate:
- 3 a. The social security number or the name and date of birth;
4 b. Beneficiary designation information;
5 c. Coverage eligibility;
6 d. Benefit amount; and
7 e. Premium payment status.
- 8 4. To the extent permitted by law, for each potential match identified as a result of a
9 death master file or revised death master file match, the insurer may disclose
10 minimum necessary personal information about the insured or beneficiary to:
- 11 a. A person the insurer reasonably believes may be able to assist the insurer locate
12 the beneficiary; or
13 b. A person otherwise entitled to payment of the claims proceeds.
- 14 5. An insurer or an insurer's service provider may not charge an insured, accountholder,
15 or beneficiary for any fees or costs associated with a comparison, search, or
16 verification conducted pursuant to this section.
- 17 6. The benefits from a life insurance policy or a retained asset account, plus any
18 applicable accrued interest must be first payable to the designated beneficiaries or
19 owners and if the beneficiaries or owners cannot be found, escheat to the state as
20 unclaimed property pursuant to under chapter 47-30.1.
- 21 7. Within one hundred twenty days following a potential match identified as a result of
22 a death master file or revised death master file match, an insurer shall notify the state
23 abandoned property office upon the expiration of the statutory time period for escheat
24 that:
- 25 a. A life insurance policy beneficiary or retained asset accountholder has not
26 submitted a claim with the insurer; and
27 b. The insurer has complied with subsections 2 and 3 and has been unable, after
28 good-faith efforts documented by the insurer, to contact the retained asset
29 accountholder, beneficiary, or beneficiaries.
- 30 8. Upon such providing notice under subsection 7, an insurer immediately shall submit
31 the unclaimed life insurance benefits or unclaimed retained asset accounts, plus any

1 applicable accrued interest, to the state abandoned property office as provided under
2 chapter 47-30.1.

3 **Application.**

4 Section 47-30.1-07 and chapter 47-30.1, relating to unclaimed property, apply to a contract
5 or policy to the extent the laws do not conflict with this chapter.

6 **Unfair trade practices.**

7 Failure to meet any requirement of this chapter is a violation of chapter 26.1-04.

8 **SECTION 2. AMENDMENT.** Section 47-30.1-07 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **47-30.1-07. Funds owing under life insurance policies.**

- 11 1. Funds held or owing under any life or endowment insurance policy or annuity contract
12 that has matured or terminated are presumed abandoned if unclaimed for more than
13 three years after the funds became due and payable as established from the records
14 of the insurance company holding or owing the funds, but property described in
15 subdivision b of subsection 3 is presumed abandoned if unclaimed for more than three
16 years. If the policy or annuity contract provides for death benefits and is covered under
17 section 1 of this Act, the insurance company shall comply with section 1 of this Act.
- 18 2. If a person other than the insured or annuitant is entitled to the funds and an address
19 of the person is not known to the company or it is not definite and certain from the
20 records of the company who is entitled to the funds, it is presumed that the last known
21 address of the person entitled to the funds is the same as the last known address of
22 the insured or annuitant according to the records of the company.
- 23 3. For purposes of this chapter, a life or endowment insurance policy or annuity contract
24 not matured by actual proof of the death of the insured or annuitant according to the
25 records of the company is matured and the proceeds due and payable if:
- 26 a. The company knows that the insured or annuitant has died; or
- 27 b. (1) The insured has attained, or would have attained if the insured were living,
28 the limiting age under the mortality table on which the reserve is based;
- 29 (2) The policy was in force at the time the insured attained, or would have
30 attained, the limiting age specified in paragraph 1; and

1 (3) Neither the insured nor any other person appearing to have an interest in
2 the policy within the preceding three years, according to the records of the
3 company, has assigned, readjusted, or paid premiums on the policy,
4 subjected the policy to a loan, corresponded in writing with the company
5 concerning the policy, or otherwise indicated an interest as evidenced by a
6 memorandum or other record on file prepared by an employee of the
7 company.

8 4. For purposes of this chapter, the application of an automatic premium loan provision or
9 other nonforfeiture provision contained in an insurance policy does not prevent a
10 policy from being matured or terminated under subsection 1 if the insured has died or
11 the insured or the beneficiary of the policy otherwise has become entitled to the
12 proceeds thereof before the depletion of the cash surrender value of a policy by the
13 application of those provisions.

14 5. If the laws of this state or the terms of the life insurance policy require the company to
15 give notice to the insured or owner that an automatic premium loan provision or other
16 nonforfeiture provision has been exercised and the notice, given to an insured or
17 owner whose last known address according to the records of the company is in this
18 state, is undeliverable, the company shall make a reasonable search to ascertain the
19 policyholder's correct address to which the notice must be mailed.

20 6. Notwithstanding any other provision of law, if the company learns of the death of the
21 insured or annuitant and the beneficiary has not communicated with the insurer, within
22 ~~four months after~~ ninety days following the company learning of the death, the
23 company shall ~~take reasonable steps to pay the proceeds to the beneficiary;~~

24 a. Complete a good-faith effort, which the company shall document, to confirm the
25 death of the insured or annuitant against other available records and information;
26 and

27 b. Determine whether benefits are due in accordance with the applicable insurance
28 policy or annuity contract, and if benefits are due in accordance with the
29 applicable policy or contract the company shall:

30 (1) Use good-faith efforts, which the company shall document, to locate the
31 beneficiary or beneficiaries; and

1 (2) Provide the appropriate claims forms or instructions to the beneficiary or
2 beneficiaries to make a claim, including the need to provide an official death
3 certificate, if applicable under the policy or contract.

4 7. ~~Commencing two years after July 1, 1985, every~~Every change of beneficiary form
5 issued by an insurance company under any life or endowment insurance policy or
6 annuity contract to an insured or owner who is a resident of this state must request the
7 following information:

- 8 a. The name of each beneficiary, or if a class of beneficiaries is named, the name of
9 each current beneficiary in the class;
10 b. The address of each beneficiary; and
11 c. The relationship of each beneficiary to the insured.