

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1171
(Representatives Keiser, Kasper)
(Senators Klein, O'Connell)

AN ACT to create and enact a new chapter to title 26.1 of the North Dakota Century Code, relating to unclaimed life insurance benefits; and to amend and reenact section 47-30.1-07 of the North Dakota Century Code, relating to the state's unclaimed property act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Definitions.

As used in this chapter:

1. "Contract" means an annuity contract issued in this state. The term does not include an annuity used to fund an employment-based retirement plan or program in which the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.
2. "Death master file" means the United States social security administration's death master file or any other database or service the commissioner has determined is at least as comprehensive as the United States social security administration's death master file for determining that an individual has reportedly died.
3. "Death master file match" means a search of the death master file or revised death master file which results in a match of the social security number or of the name and date of birth of an insured, annuity owner, or retained asset accountholder.
4. "Policy" means any policy or certificate of life insurance issued in this state which provides a death benefit. The term does not include:
 - a. A policy or certificate of life insurance which provides a death benefit under an employee benefit plan subject to the federal Employee Retirement Income Security Act of 1974 [Pub. L. 93-406; 29 U.S.C. 1002 et seq.];
 - b. A policy or certificate of life insurance which provides a death benefit under an employee benefit plan under any federal employee benefit program;
 - c. A policy or certificate of life insurance which is used to fund a pre-need funeral contract or prearrangement; or
 - d. A policy or certificate of credit life or accidental death insurance.
5. "Revised death master file" means the names added to the death master file since the insurer's most recent semiannual comparison required under this chapter.

Insurer conduct.

1. Before November 1, 2014, an insurer shall perform a comparison of the insurer's insureds' in-force life insurance policies and retained asset accounts against a death master file in order to identify potential matches of the insurer's insureds. Semiannually, an insurer shall perform a comparison of the insurer's insureds' in-force life insurance policies and retained asset

accounts against the revised death master file in order to identify the potential matches of the insurer's insureds.

2. For each potential match identified as a result of a death master file or revised death master file match, within twelve months of the potential match, the insurer shall:
 - a. Complete a good-faith effort, which the insurer shall document, to confirm the death of the insured or retained asset accountholder against other available records and information;
 - b. Review the insurer's records to determine whether the individual who has died purchased any other products with the insurer; and
 - c. Determine whether benefits are due in accordance with the applicable policy or contract, and if benefits are due in accordance with the applicable policy or contract the insurer shall:
 - (1) Use good-faith efforts, which the insurer shall document, to locate the beneficiary or beneficiaries; and
 - (2) Provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim, including the need to provide an official death certificate, if applicable under the policy or contract.
3. With respect to group life insurance, for each potential match identified as a result of a death master file or revised death master file match, the insurer shall confirm the possible death of an insured if the insurer maintains at least the following information of those covered under a policy or certificate:
 - a. The social security number or the name and date of birth;
 - b. Beneficiary designation information;
 - c. Coverage eligibility;
 - d. Benefit amount; and
 - e. Premium payment status.
4. Every insurer shall implement procedures to account for:
 - a. Nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names;
 - b. Compound last names, maiden or married names, and hyphens, blank spaces, and apostrophes in last names;
 - c. Incomplete date of birth data and transposition of the month and date portions of a date of birth; and
 - d. Incomplete social security numbers.
5. To the extent permitted by law, for each potential match identified as a result of a death master file or revised death master file match, the insurer may disclose minimum necessary personal information about the insured or beneficiary to:
 - a. A person the insurer reasonably believes may be able to assist the insurer locate the beneficiary; or
 - b. A person otherwise entitled to payment of the claims proceeds.

6. An insurer or an insurer's service provider may not charge an insured, accountholder, or beneficiary for any fees or costs associated with a comparison, search, or verification conducted pursuant to this section.
7. The benefits from a life insurance policy or a retained asset account, plus any applicable accrued interest must be first payable to the designated beneficiaries or owners and if the beneficiaries or owners cannot be found, escheat to the state as unclaimed property as provided under this chapter.
8. Within twelve months following a potential match identified as a result of a death master file or revised death master file match, an insurer shall:
 - a. Notify the state abandoned property office that a life insurance policy beneficiary or retained asset accountholder has not submitted and completed a claim with the insurer and that the insurer has complied with subsections 2 and 3 and has been unable, after good-faith efforts documented by the insurer, to contact the retained asset accountholder, beneficiary, or beneficiaries and unable to complete the necessary payment; and
 - b. Submit any unclaimed life insurance benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the state abandoned property office under chapter 47-30.1.
9. Except as otherwise provided under this chapter, chapter 47-30.1 applies to the escheatment of unclaimed life insurance benefits or unclaimed retained asset accounts.

Rulemaking.

The commissioner may adopt rules to limit an insurer's death master file comparisons and revised death master file comparisons required under this chapter to the insurer's electronic searchable files, to allow the commissioner to approve an insurer's plan and timeline for conversion of the insurer's files to electronic searchable files, and to allow for phasing-in compliance with this chapter according to an insurer's plan and timeline approved by the commissioner.

Application.

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

Unfair trade practices - Liability limitation.

Failure to meet any requirement of this chapter is a violation of chapter 26.1-04. This chapter does not create a private cause of action for violation of this chapter. Once an insurer submits unclaimed life insurance benefits or unclaimed retained asset accounts, plus any applicable accrued interests, to the state abandoned property office in compliance with this chapter, the insurer is relieved and indemnified from additional liability to any person relating to the proceeds submitted. This indemnification from liability is in addition to any other protections provided by law.

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

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

1. Funds~~Except as otherwise provided under this section, funds~~ held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for ~~more than three years~~one year after the funds became due and payable as established from the records of the insurance company holding or owing the funds; ~~but property described in subdivision b of subsection 3 is presumed abandoned if unclaimed for more than three years. If the policy or annuity contract provides for death benefits and is a~~

policy covered under section 1 of this Act, the insurance company shall comply with section 1 of this Act.

2. If a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the company.
3. For purposes of this chapter, a life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the records of the insurance company is matured and the proceeds due and payable if:
 - a. The company knows that of the potential death of the insured or annuitant has died, in which case the company shall comply with subsection 6; or
 - b.
 - (1) The insured has attained, or would have attained if the insured were living, the limiting age under the mortality table on which the reserve is based;
 - (2) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in paragraph 1; and
 - (3) Neither the insured nor any other person appearing to have an interest in the policy within the preceding three years, according to the records of the company, has assigned, readjusted, or paid premiums on the policy, subjected the policy to a loan, corresponded in writing with the company concerning the policy, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the company.
4. For purposes of this chapter, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under subsection 1 if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds thereof before the depletion of the cash surrender value of a policy by the application of those provisions.
5. If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last known address according to the records of the company is in this state, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.
6. ~~Notwithstanding any other provision of law, if~~ the company learns of the death or potential death of the insured or annuitant and the beneficiary has not communicated with the insurer, within fourtwelve months after following the company learning of the death or potential death, the company shall take reasonable steps to pay the proceeds to the beneficiary.:
 - a. Complete a good-faith effort, which the company shall document, to confirm the death of the insured or annuitant against other available records and information;
 - b. Review the insurer's records to determine whether the individual who has died purchased any other products with the insurer;
 - c. Determine whether benefits are due in accordance with the applicable insurance policy or annuity contract, and if benefits are due in accordance with the applicable policy or contract the company shall:

- (1) Use good-faith efforts, which the company shall document, to locate the beneficiary or beneficiaries; and
 - (2) Provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim, including the need to provide an official death certificate, if applicable under the policy or contract; and
 - d. Report and deliver the unclaimed property to the administrator as abandoned property if the benefits are due in accordance with the applicable insurance policy or annuity contract and the beneficiary has not submitted and completed a claim with the insurer.
7. ~~Commencing two years after July 1, 1985, every~~Every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state must request the following information:
- a. The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class;
 - b. The address of each beneficiary; and
 - c. The relationship of each beneficiary to the insured.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1171.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 44 Nays 1 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State