

CHAPTER 2016-219

Committee Substitute for Senate Bill No. 966

An act relating to unclaimed property; amending s. 717.107, F.S.; revising a presumption of when funds held or owing under a matured or terminated life or endowment insurance policy or annuity contract are unclaimed; revising conditions of when certain insurance policies or annuity contracts are deemed matured and the proceeds are due and payable; requiring an insurer to compare records of certain insurance policies, annuity contracts, and retained asset accounts against the United States Social Security Administration Death Master File or a certain database or service to determine whether a death is indicated and to update certain records; providing requirements for the comparison; providing for a presumption of death for certain individuals; providing exceptions; requiring an insurer to account for certain variations in data and partial information; providing the circumstances under which a policy, a contract, or an account is deemed to be in force; providing applicability; defining the term “recordkeeping”; requiring an insurer to follow certain procedures after learning of a death through a specified comparison; authorizing an insurer to disclose certain personal information to specified persons or entities for certain purposes; prohibiting an insurer and specified entities from charging fees and costs associated with certain activities; conforming provisions to changes made by the act; providing retroactive applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

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

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

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

(2) If a person other than the insured, ~~the or~~ annuitant, or the retained asset account holder is entitled to the funds and no address of the person is 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, ~~the~~ or annuitant, or the retained asset account holder 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, ~~the~~ or annuitant, or the retained asset account holder according to the records of the company is deemed matured and the proceeds due and payable if any of the following applies:

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

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

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

~~(d)(b)~~1. The insured has attained, or would have attained if he or she 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 subparagraph 1.; and

3. Neither the insured nor any other person appearing to have an interest in the policy within the preceding 2 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 the policy from being matured or terminated under subsection (1) if the insured has died or the insured or the beneficiaries of the policy otherwise have 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 of the insured, ~~the~~ or annuitant, or the retained asset account holder and the beneficiary has not communicated with the insurer within 4

months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(7) Commencing 2 years after July 1, 1987, 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.

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

(8)(a) Notwithstanding any other provision of law, an insurer shall compare the records of its insureds' life or endowment insurance policies, annuity contracts that provide a death benefit, and retained asset accounts that were in force at any time on or after January 1, 1992, against the United States Social Security Administration Death Master File once to determine whether the death of an insured, an annuitant, or a retained asset account holder is indicated and shall thereafter use the Death Master File update files for future comparisons. The comparisons must use the name and social security number or date of birth of the insured, the annuitant, or the retained asset account holder. The comparisons must be made on at least an annual basis before August 31 of each year. If an insurer performs such comparisons regarding its annuities or other books of business more frequently than once a year, the insurer must also make comparisons regarding its life insurance policies, annuity contracts that provide a death benefit, and retained asset accounts at the same frequency as is made regarding its annuities or other books or lines of business. An insurer may perform the comparisons required by this paragraph using any database or service that the department determines is at least as comprehensive as the United States Social Security Administration Death Master File for the purpose of indicating that a person has died.

(b) However, an insurer that meets one of the following criteria as of June 30, 2016, shall conduct the comparison in paragraph (a) to all in-force policies:

1. The insurer has entered into a regulatory settlement agreement with the Office of Insurance Regulation; or

2. The insurer has received a targeted market conduct examination report issued by the Office of Insurance Regulation regarding claims-handling practices and the use of the Death Master File with no findings of violations of law.

(c) An insured, an annuitant, or a retained asset account holder is presumed deceased if the date of his or her death is indicated by the comparison required under paragraph (a) unless the insurer has in its

records competent and substantial evidence that the person is living, including, but not limited to, a contact made by the insurer with such person or his or her legal representative. The insurer shall account for common variations in data and for any partial names, social security numbers, dates of birth, and addresses of the insured, the annuitant, or the retained asset account holder which would otherwise preclude an exact match.

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

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

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

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

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

4. A policy issued to a group master policy owner for which the insurer does not perform recordkeeping functions. For purposes of this subparagraph, the term “recordkeeping” means those circumstances under which the insurer has agreed through a group policyholder to be responsible for obtaining, maintaining, and administering, in its own or its agents’ systems, information about each individual insured under a group insurance policy or a line of coverage thereunder, including at least the following:

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

b. Beneficiary designation information;

c. Coverage eligibility;

d. The benefit amount; and

e. Premium payment status.

5. Any policy or certificate of life insurance that is assigned to a person licensed under s. 497.452 to fund a preneed funeral merchandise or service contract.

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

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

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

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

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

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

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

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

(11) An insurer, or any agent or third party that it engages or that works on its behalf, may not charge insureds, annuitants, retained asset account holders, beneficiaries, or the estates of insureds, annuitants, retained asset account holders, or the beneficiaries of an estate any fees or costs associated with any search, verification, claim, or delivery of funds conducted pursuant to this section.

Section 2. The amendments made by this act are remedial in nature and apply retroactively. Fines, penalties, or additional interest, pursuant to chapter 717, Florida Statutes, may not be imposed due to the failure to report and remit an unclaimed life or an endowment insurance policy, a retained asset account, or an annuity contract with a death benefit if any unclaimed life or endowment insurance policy, retained asset account, or annuity contract proceeds are reported and remitted to the Department of Financial Services on or before May 1, 2021.

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

Approved by the Governor April 12, 2016.

Filed in Office Secretary of State April 12, 2016.