

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE DRS45310-MH-94A (03/12)

Short Title: Unclaimed Life Insurance Benefits. (Public)

Sponsors: Senator Apodaca (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE NORTH CAROLINA UNCLAIMED LIFE INSURANCE
3 BENEFITS ACT.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 58 of Chapter 58 of the General Statutes is amended by
6 adding a new Part to read:

7 "Part 7. Unclaimed Life Insurance Benefits.

8 "§ 58-58-360. Purpose.

9 (a) This part shall be known as the "Unclaimed Life Insurance Benefits Act".

10 "§ 58-58-370. No preemption of Unclaimed Property Act.

11 Nothing in this part shall be construed to amend, modify, or supersede the North Carolina
12 Unclaimed Property Act, Article 4 of Chapter 116B of the General Statutes.

13 "§ 58-58-380. Definitions.

14 The following definitions apply in this part:

- 15 (1) Account owner. – The owner of a retained asset account opened by a
16 resident of this State.
- 17 (2) Annuity. – Any active annuity contract issued in this State, other than an
18 annuity used to fund an employment-based retirement plan or program
19 where the insurer is not committed by terms of the annuity contract to pay
20 death benefits to the beneficiaries of specific plan participants or that is used
21 to fund a preneed funeral contract as defined in G.S. 90-210.60.
- 22 (3) Asymmetric conduct. – An insurer's use of the DMF prior to July 1, 2015, to
23 provide information regarding deceased annuitants under the insurer's
24 annuity contracts, but not to provide information regarding deceased
25 insureds under the insurer's insurance contracts.
- 26 (4) Beneficiary. – An individual or other entity entitled to benefits under a
27 policy or annuity.
- 28 (5) Death master file or DMF. – The death master file from the United States
29 social security administration or any other database or service that an insurer
30 may determine is substantially as inclusive as the death master file for
31 determining that a person has reportedly died.
- 32 (6) Death master file match or DMF match. – A search of a DMF that results in
33 a match of a person's social security number or name and date of birth.
- 34 (7) Insurer. – Any insurance company authorized to transact life insurance
35 business in this State.



- 1 (8) Person. – The policy insured, annuity owner, annuitant, or account owner, as
2 applicable under the policy, annuity, or retained asset account subject to this
3 part.
- 4 (9) Policy. – any policy or certificate of life insurance issued in this State, but
5 does not include any policy or certificate of life insurance that provides a
6 death benefit under any of the following:
- 7 a. An employee benefit plan subject to the Employee Retirement
8 Income Security Act of 1974, as periodically amended, compiled at
9 29 U.S.C. § 1002 et seq.
- 10 b. Any federal employee benefit program.
- 11 c. Government plans or church plans as defined in the Employee
12 Retirement Income Security Act of 1974, as periodically amended,
13 29 U.S.C. § 1002 et seq.
- 14 d. A policy or certificate of life insurance that is used to fund a preneed
15 funeral contract as defined in G.S. 90-210.60.
- 16 e. A policy or certificate of credit, life, or accident and health insurance.
- 17 f. A policy of industrial life insurance as defined in G.S. 58-58.5.
- 18 (10) Record keeping services. – Those circumstances under which the insurer has
19 agreed with a group life insurance policyholder to be responsible for
20 obtaining, maintaining, and administering in its own systems information
21 about each individual insured under the policyholder's group life insurance
22 contract that includes at least the following items:
- 23 a. Individual insured's social security number or name and date of birth;
24 b. Beneficiary designation information;
25 c. Coverage eligibility;
26 d. Benefit amount; and
27 e. Premium payment status.

28 **§ 58-58-390. Requirements for insurers.**

29 (a) To the extent that an insurer's records of its in-force policies, annuities, and account
30 owners are available electronically, an insurer shall perform a comparison of such in-force
31 policies, annuities, and account owners against a death master file, on a semi-annual basis, to
32 identify potential death master file matches. To the extent that an insurer's records of its
33 in-force policies, annuities, and account owners are not available electronically, an insurer shall
34 perform a comparison of such in-force policies, annuities, and account owners against a death
35 master file, on a semi-annual basis, to identify potential death master file matches, using the
36 records most easily accessible by the insurer.

- 37 (1) This section shall not apply to policies or annuities for which the insurer has
38 received premiums from outside the policy value, by check, bank draft,
39 payroll deduction, or any other similar method of active premium payment,
40 within the 18 months immediately preceding the death master file
41 comparison.
- 42 (2) An insurer may comply with the requirements of this section by using the
43 full death master file once and thereafter using the death master file update
44 files for future comparisons.
- 45 (3) An insurer that has not engaged in asymmetric conduct prior to July 1, 2015,
46 shall not be required to comply with the requirements of this section with
47 respect to any policies, annuities, or retained asset accounts issued or
48 delivered prior to July 1, 2015. An insurer exempted under this subdivision
49 shall comply with the requirements of this section for all policies, annuities,
50 or retained asset accounts issued after July 1, 2015.

1 (4) The comparison required by this section shall not be applicable to group life
2 insurance policies for which the insurer does not perform record keeping
3 services.

4 (b) If an insurer learns of the possible death of a person, through a DMF match or
5 otherwise, then the insurer shall within 90 days complete a good-faith effort, which shall be
6 documented by the insurer, do all of the following:

7 (1) Confirm the death of such person against other available records and
8 information.

9 (2) Review its records to determine whether such deceased person had
10 purchased any other products with the insurer.

11 (3) Determine whether benefits may be due in accordance with any applicable
12 policy, annuity, or retained asset account.

13 (4) Locate the beneficiary or beneficiaries.

14 (5) Provide the appropriate claims forms or instructions to the beneficiary to
15 make a claim and notify the beneficiary of the actions necessary to submit a
16 valid claim.

17 (c) Except as prohibited by law, an insurer may disclose only the minimum necessary
18 identifying personal information about such an insured, annuitant, account owner or beneficiary
19 to a person who the insurer reasonably believes may be able to assist the insurer in locating the
20 beneficiary or a person otherwise entitled to payment of the claims proceeds.

21 (d) In the event an insurer is unable to confirm the death of a person following a DMF
22 match, an insurer may determine that no further good-faith efforts, as described in subsection
23 (b) of this section, are required of it with respect to such policy, annuity, or retained asset
24 account.

25 (e) An insurer or its service provider shall not charge any beneficiary or other person
26 who may be entitled to benefits any fees or costs associated with a DMF search or the
27 verification of a DMF match conducted pursuant to this section.

28 (f) The benefits from life insurance policies, annuities, or retained asset accounts, any
29 applicable accrued contractual interest, and interest payable under G.S. 58-58-110 shall first be
30 payable to the beneficiaries or account owners as provided for in such policies, annuities, or
31 retained asset accounts. In the event the beneficiaries or account owners cannot be found, the
32 benefits and any associated interest shall escheat to the State as unclaimed property as set forth
33 in Article 4 of Chapter 116B of the General Statutes.

34 (g) The Commissioner may exempt an insurer from the DMF comparisons required
35 under subsection (a) of this section if the insurer demonstrates to the Commissioner's
36 satisfaction that compliance would result in hardship to the insurer.

37 (h) Nothing in this section limits an insurer from requiring a valid death certificate as
38 part of any claims validation process or otherwise requiring compliance with the terms and
39 conditions of the policy or annuity relative to filing and payment of claims.

40 "**§ 58-58-400. Noncompliance may constitute unfair claims settlement practice.**"

41 A pattern of failures to meet the requirements of this part may constitute an unfair claims
42 settlement practice under G.S. 58-3-100(a)(5) and G.S. 58-63-15. Nothing in this part shall be
43 construed to create or imply a private cause of action for a violation of this part."

44 **SECTION 2.** The Commissioner of Insurance is authorized to promulgate rules
45 under Article 2A of Chapter 150B of the General Statutes to implement this act, provided such
46 rules shall not impose any duty or requirements not stated in this act.

47 **SECTION 3.** Section 2 of this act is effective when it becomes law. The remainder
48 of this act becomes effective July 1, 2015.