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Short Title: Unclaimed Life Insurance Benefits.

(Public)

Sponsors:

Referred to:

March 30, 2015

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, including the
13 authority of the North Carolina Department of State Treasurer to examine records and conduct
14 an audit. Specifically, nothing in this Part shall restrict the authority of the North Carolina
15 Department of State Treasurer to request or access records of an insurer and conduct an
16 examination of the insurer's records under Chapter 116B of the General Statutes.

17 **"§ 58-58-380. Definitions.**

18 The following definitions apply in this Part:

- 19 (1) Account owner. – The owner of a retained asset account opened by a
20 resident of this State.
- 21 (2) Active premium payment. – Payment of premiums for policies or annuities
22 that the insurer receives from outside the policy value, by check, payroll
23 deduction, or any other similar method of deliberate payment.
- 24 (3) Annuity. – Any active annuity contract issued in this State, other than an
25 annuity used to fund an employment-based retirement plan or program
26 where (i) the insurer does not perform the record-keeping services, (ii) the
27 insurer is not committed by terms of the annuity contract to pay death
28 benefits to the beneficiaries of specific plan participants, or (iii) the annuity
29 is used to fund a preneed funeral contract as defined in G.S. 90-210.60.
- 30 (4) Asymmetric conduct. – An insurer's selective use of information from the
31 DMF prior to October 1, 2015, to identify whether certain persons are
32 deceased, in order to terminate benefits, but not to determine whether
33 insureds under the insurer's insurance policies in a non-active premium
34 paying status are deceased for the purpose of paying benefits.



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- 1 (5) Beneficiary. – An individual or other entity entitled to benefits under a
2 policy or annuity due to the death of the policy insured, annuity owner,
3 annuitant, or account owner.
- 4 (6) Death master file or DMF. – Any of the following:
5 a. The death master file from the United States Social Security
6 Administration.
7 b. Any other database or service that an insurer may determine is
8 substantially as inclusive as the death master file from the United
9 States Social Security Administration for determining that a person
10 has reportedly died.
- 11 (7) Death master file match or DMF match. – A search of a DMF that results in
12 a match of a person's Social Security number or name and date of birth.
- 13 (8) Insurer. – Any insurance company authorized to transact life insurance
14 business in this State.
- 15 (9) Person. – The policy insured, annuity owner, annuitant, or account owner, as
16 applicable under the policy, annuity, or retained asset account subject to this
17 Part.
- 18 (10) Policy. – any policy or certificate of life insurance issued in this State, but
19 does not include any policy or certificate of life insurance that provides a
20 death benefit under any of the following:
21 a. An employee benefit plan subject to the Employee Retirement
22 Income Security Act of 1974, as periodically amended, compiled at
23 29 U.S.C. § 1002 et seq.
24 b. Any federal employee benefit program.
25 c. Government plans or church plans as defined in the Employee
26 Retirement Income Security Act of 1974, as periodically amended,
27 29 U.S.C. § 1002 et seq.
28 d. A policy or certificate of life insurance that is used to fund a preneed
29 funeral contract as defined in G.S. 90-210.60.
30 e. A policy or certificate of credit life or accident and health insurance.
- 31 (11) Record-keeping services. – Those circumstances under which the insurer has
32 agreed with a group life insurance policyholder to be responsible for
33 obtaining, maintaining, and administering in its own systems information
34 about each individual insured under the policyholder's group life insurance
35 contract that includes at least all of the following items:
36 a. Individual insured's Social Security number or name and date of
37 birth.
38 b. Beneficiary designation information.
39 c. Coverage eligibility.
40 d. Benefit amount.
41 e. Premium payment status.
- 42 (12) Retained asset account. – An account created when a life insurance company
43 pays the proceeds from a life insurance policy or annuity contract to a
44 beneficiary by establishing an account containing those proceeds in name of
45 and for use by the beneficiary.

46 **"§ 58-58-390. Requirements for insurers.**

47 (a) To the extent that an insurer's records of its in-force policies, annuities, and account
48 owners are available electronically, an insurer shall perform a comparison of such in-force
49 policies, annuities, and account owners against a death master file, on a semiannual basis, to
50 identify potential death master file matches. To the extent that an insurer's records of its
51 in-force policies, annuities, and account owners are not available electronically, an insurer shall

1 perform a comparison of such in-force policies, annuities, and account owners against a death
2 master file, on a semiannual basis, to identify potential death master file matches, using the
3 records most easily accessible by the insurer.

4 (1) This section shall not apply to policies or annuities for which the insurer has
5 received premiums from outside the policy value, by check, bank draft,
6 payroll deduction, or any other similar method of active premium payment,
7 within the 18 months immediately preceding the death master file
8 comparison.

9 (2) An insurer may comply with the requirements of this section by using the
10 full death master file once and thereafter using the death master file update
11 files for future comparisons.

12 (3) An insurer shall not be required to comply with the requirements of
13 subsection (a) of this section, with respect to any policies, annuities, or
14 retained asset accounts issued or delivered prior to October 1, 2015, if the
15 insurer attests in a sworn statement subject to perjury, signed by an officer or
16 director of the insurer, that upon information and belief, all of the following
17 are true:

18 a. The insurer has not engaged in asymmetric conduct; and

19 b. The insurer has historically practiced both of the following:

20 1. The insurer acts in compliance with the requirements of
21 G.S. 58-63-15(11) with respect to the investigation, handling,
22 and payment of policy proceeds; and

23 2. The insurer monitors the limiting age of each person, as
24 stated in the policy, and performs its obligations under
25 Chapter 116B of the General Statutes when an insured has
26 reached limiting age.

27 An insurer exempted under this subdivision shall comply with the
28 requirements of this section for all policies, annuities, or retained asset
29 accounts issued after October 1, 2015.

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

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

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

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

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

42 (4) Locate the beneficiary or beneficiaries.

43 (5) Provide the appropriate claims forms or instructions to the beneficiary to
44 make a claim and notify the beneficiary of the actions necessary to submit a
45 valid claim.

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

50 (d) In the event an insurer is unable to confirm the death of a person following a DMF
51 match, an insurer may determine that no further good-faith efforts, as described in subsection

1 (b) of this section, are required of it with respect to such policy, annuity, or retained asset
2 account.

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

6 (f) The benefits from life insurance policies, annuities, or retained asset accounts and
7 any applicable accrued contractual interest shall first be payable to the beneficiaries or account
8 owners as provided for in such policies, annuities, or retained asset accounts. In the event the
9 beneficiaries or account owners cannot be found, the benefits and any associated contractual
10 interest shall escheat to the State as unclaimed property as set forth in Article 4 of Chapter
11 116B of the General Statutes.

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

15 **"§ 58-58-400. Noncompliance may constitute unfair claims settlement practice.**

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

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

22 **SECTION 3.** Section 2 of this act is effective when it becomes law. The remainder
23 of this act becomes effective October 1, 2015.