

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1171

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 issued in this state. The term does not include
10 an annuity used to fund an employment-based retirement plan or program in which the
11 insurer is not committed by terms of the annuity contract to pay death benefits to the
12 beneficiaries of 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 issued in this state which
21 provides a death 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~~Before November 1, 2014, an insurer
10 shall perform a comparison of the insurer's insureds' in-force life insurance policies
11 and retained asset accounts against a death master file in order to identify potential
12 matches of the insurer's insureds. Semiannually, an insurer shall perform a
13 comparison of the insurer's insureds' in-force life insurance policies and retained asset
14 accounts against the revised death master file in order to identify the potential
15 matches of the insurer's 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~~four months 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. Review the insurer's records to determine whether the individual who has died
22 purchased any other products with the insurer; and
23 c. Determine whether benefits are due in accordance with the applicable policy or
24 contract, and if benefits are due in accordance with the applicable policy or
25 contract the insurer shall:
26 (1) Use good-faith efforts, which the insurer shall document, to locate the
27 beneficiary or beneficiaries; and
28 (2) Provide the appropriate claims forms or instructions to the beneficiary or
29 beneficiaries to make a claim, including the need to provide an official death
30 certificate, if applicable under the policy or contract.

1 3. With respect to group life insurance, for each potential match identified as a result of a
2 death master file or revised death master file match, the insurer shall confirm the
3 possible death of an insured if the insurer maintains at least the following information
4 of those covered under a policy or certificate:

- 5 a. The social security number or the name and date of birth;
6 b. Beneficiary designation information;
7 c. Coverage eligibility;
8 d. Benefit amount; and
9 e. Premium payment status.

10 4. Every insurer shall implement procedures to account for:

- 11 a. Nicknames, initials used in lieu of a first or middle name, use of a middle name,
12 compound first and middle names, and interchanged first and middle names;
13 b. Compound last names, maiden or married names, and hyphens, blank spaces,
14 and apostrophes in last names;
15 c. Incomplete date of birth data and transposition of the month and date portions of
16 a date of birth; and
17 d. Incomplete social security numbers.

18 5. To the extent permitted by law, for each potential match identified as a result of a
19 death master file or revised death master file match, the insurer may disclose
20 minimum necessary personal information about the insured or beneficiary to:

- 21 a. A person the insurer reasonably believes may be able to assist the insurer locate
22 the beneficiary; or
23 b. A person otherwise entitled to payment of the claims proceeds.

24 ~~5.6.~~ An insurer or an insurer's service provider may not charge an insured, accountholder,
25 or beneficiary for any fees or costs associated with a comparison, search, or
26 verification conducted pursuant to this section.

27 ~~6.7.~~ The benefits from a life insurance policy or a retained asset account, plus any
28 applicable accrued interest must be first payable to the designated beneficiaries or
29 owners and if the beneficiaries or owners cannot be found, escheat to the state as
30 unclaimed property under chapter 47-30.1.

1 ~~7. Within one hundred twenty days following a potential match identified as a result of a~~
2 ~~death master file or revised death master file match, an insurer shall notify the state~~
3 ~~abandoned property office that:~~

4 ~~a. A life insurance policy beneficiary or retained asset accountholder has not~~
5 ~~submitted a claim with the insurer; and~~

6 ~~b. The insurer has complied with subsections 2 and 3 and has been unable, after~~
7 ~~good faith efforts documented by the insurer, to contact the retained asset~~
8 ~~accountholder, beneficiary, or beneficiaries.~~

9 ~~8. Upon providing notice under subsection 7, an insurer immediately shall submit the~~
10 ~~unclaimed life insurance benefits or unclaimed retained asset accounts, plus any~~
11 ~~applicable accrued interest, to the state abandoned property office as provided under~~
12 ~~chapter 47-30.1.~~

13 **Rulemaking.**

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

20 **Application.**

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

23 **Unfair trade practices - Liability limitation.**

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

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

3 **47-30.1-07. Funds owing under life insurance policies.**

- 4 1. Funds held or owing under any life or endowment insurance policy or annuity contract
5 that has matured or terminated are presumed abandoned if unclaimed for more than
6 three years after the funds became due and payable as established from the records
7 of the insurance company holding or owing the funds, but property described in
8 subdivision b of subsection 3 is presumed abandoned if unclaimed for more than three
9 years. ~~If the policy or annuity contract provides for death benefits and is covered under~~
10 ~~section 1 of this Act, the insurance company shall comply with section 1 of this Act.~~
- 11 2. If a person other than the insured or annuitant is entitled to the funds and an address
12 of the person is not known to the company or it is not definite and certain from the
13 records of the company who is entitled to the funds, it is presumed that the last known
14 address of the person entitled to the funds is the same as the last known address of
15 the insured or annuitant according to the records of the company.
- 16 3. For purposes of this chapter, a life or endowment insurance policy or annuity contract
17 not matured by actual proof of the death of the insured or annuitant according to the
18 records of the company is matured and the proceeds due and payable if:
- 19 a. The company knows that the insured or annuitant has died; or
- 20 b. (1) The insured has attained, or would have attained if the insured were living,
21 the limiting age under the mortality table on which the reserve is based;
- 22 (2) The policy was in force at the time the insured attained, or would have
23 attained, the limiting age specified in paragraph 1; and
- 24 (3) Neither the insured nor any other person appearing to have an interest in
25 the policy within the preceding three years, according to the records of the
26 company, has assigned, readjusted, or paid premiums on the policy,
27 subjected the policy to a loan, corresponded in writing with the company
28 concerning the policy, or otherwise indicated an interest as evidenced by a
29 memorandum or other record on file prepared by an employee of the
30 company.

- 1 4. For purposes of this chapter, the application of an automatic premium loan provision or
2 other nonforfeiture provision contained in an insurance policy does not prevent a
3 policy from being matured or terminated under subsection 1 if the insured has died or
4 the insured or the beneficiary of the policy otherwise has become entitled to the
5 proceeds thereof before the depletion of the cash surrender value of a policy by the
6 application of those provisions.
- 7 5. If the laws of this state or the terms of the life insurance policy require the company to
8 give notice to the insured or owner that an automatic premium loan provision or other
9 nonforfeiture provision has been exercised and the notice, given to an insured or
10 owner whose last known address according to the records of the company is in this
11 state, is undeliverable, the company shall make a reasonable search to ascertain the
12 policyholder's correct address to which the notice must be mailed.
- 13 6. Notwithstanding any other provision of law, if the company learns of the death of the
14 insured or annuitant and the beneficiary has not communicated with the insurer, within
15 ~~ninety days following the company learning of~~ **four months after** the death, the
16 company shall ~~take reasonable steps to pay the proceeds to the beneficiary;~~
17 a. Complete a good-faith effort, which the company shall document, to confirm the
18 death of the insured or annuitant against other available records and information;
19 and
20 b. Determine whether benefits are due in accordance with the applicable insurance
21 policy or annuity contract, and if benefits are due in accordance with the
22 applicable policy or contract the company shall:
23 (1) Use good-faith efforts, which the company shall document, to locate the
24 beneficiary or beneficiaries; and
25 (2) Provide the appropriate claims forms or instructions to the beneficiary or
26 beneficiaries to make a claim, including the need to provide an official death
27 certificate, if applicable under the policy or contract.
- 28 7. ~~Commencing two years after July 1, 1985, every~~ **Every** change of beneficiary form
29 issued by an insurance company under any life or endowment insurance policy or
30 annuity contract to an insured or owner who is a resident of this state must request the
31 following information:

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- 1 a. The name of each beneficiary, or if a class of beneficiaries is named, the name of
- 2 each current beneficiary in the class;
- 3 b. The address of each beneficiary; and
- 4 c. The relationship of each beneficiary to the insured.