

**FIRST ENGROSSMENT
with Senate Amendments
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. Before November 1, 2014, an insurer shall perform a comparison of the insurer's
10 insureds' in-force life insurance policies and retained asset accounts against a death
11 master file in order to identify potential matches of the insurer's insureds.
12 Semiannually, an insurer shall perform a comparison of the insurer's insureds' in-force
13 life insurance policies and retained asset accounts against the revised death master
14 file in order to identify the potential matches of the insurer's insureds.
15 2. For each potential match identified as a result of a death master file or revised death
16 master file match, within four months of the match, the insurer shall:
17 a. Complete a good-faith effort, which the insurer shall document, to confirm the
18 death of the insured or retained asset account holder against other available
19 records and information;
20 b. Review the insurer's records to determine whether the individual who has died
21 purchased any other products with the insurer; and
22 c. Determine whether benefits are due in accordance with the applicable policy or
23 contract, and if benefits are due in accordance with the applicable policy or
24 contract the insurer shall:
25 (1) Use good-faith efforts, which the insurer shall document, to locate the
26 beneficiary or beneficiaries; and
27 (2) Provide the appropriate claims forms or instructions to the beneficiary or
28 beneficiaries to make a claim, including the need to provide an official death
29 certificate, if applicable under the policy or contract.
30 3. With respect to group life insurance, for each potential match identified as a result of a
31 death master file or revised death master file match, the insurer shall confirm the

- 1 possible death of an insured if the insurer maintains at least the following information
2 of those covered under a policy or certificate:
- 3 a. The social security number or the name and date of birth;
4 b. Beneficiary designation information;
5 c. Coverage eligibility;
6 d. Benefit amount; and
7 e. Premium payment status.
- 8 4. Every insurer shall implement procedures to account for:
- 9 a. Nicknames, initials used in lieu of a first or middle name, use of a middle name,
10 compound first and middle names, and interchanged first and middle names;
11 b. Compound last names, maiden or married names, and hyphens, blank spaces,
12 and apostrophes in last names;
13 c. Incomplete date of birth data and transposition of the month and date portions of
14 a date of birth; and
15 d. Incomplete social security numbers.
- 16 5. To the extent permitted by law, for each potential match identified as a result of a
17 death master file or revised death master file match, the insurer may disclose
18 minimum necessary personal information about the insured or beneficiary to:
- 19 a. A person the insurer reasonably believes may be able to assist the insurer locate
20 the beneficiary; or
21 b. A person otherwise entitled to payment of the claims proceeds.
- 22 6. An insurer or an insurer's service provider may not charge an insured, accountholder,
23 or beneficiary for any fees or costs associated with a comparison, search, or
24 verification conducted pursuant to this section.
- 25 7. The benefits from a life insurance policy or a retained asset account, plus any
26 applicable accrued interest must be first payable to the designated beneficiaries or
27 owners and if the beneficiaries or owners cannot be found, escheat to the state as
28 unclaimed property under chapter 47-30.1.

29 **Rulemaking.**

30 The commissioner may adopt rules to limit an insurer's death master file comparisons and
31 revised death master file comparisons required under this chapter to the insurer's electronic

1 searchable files, to allow the commissioner to approve an insurer's plan and timeline for
2 conversion of the insurer's files to electronic searchable files, and to allow for phasing-in
3 compliance with this chapter according to an insurer's plan and timeline approved by the
4 commissioner.

5 **Application.**

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

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

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

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

18 **47-30.1-07. Funds owing under life insurance policies.**

- 19 1. Funds held or owing under any life or endowment insurance policy or annuity contract
20 that has matured or terminated are presumed abandoned if unclaimed for more than
21 three years after the funds became due and payable as established from the records
22 of the insurance company holding or owing the funds, but property described in
23 subdivision b of subsection 3 is presumed abandoned if unclaimed for more than three
24 years.
- 25 2. If a person other than the insured or annuitant is entitled to the funds and an address
26 of the person is not known to the company or it is not definite and certain from the
27 records of the company who is entitled to the funds, it is presumed that the last known
28 address of the person entitled to the funds is the same as the last known address of
29 the insured or annuitant according to the records of the company.

- 1 3. For purposes of this chapter, a life or endowment insurance policy or annuity contract
2 not matured by actual proof of the death of the insured or annuitant according to the
3 records of the company is matured and the proceeds due and payable if:
- 4 a. The company knows that the insured or annuitant has died; or
- 5 b. (1) The insured has attained, or would have attained if the insured were living,
6 the limiting age under the mortality table on which the reserve is based;
7 (2) The policy was in force at the time the insured attained, or would have
8 attained, the limiting age specified in paragraph 1; and
9 (3) Neither the insured nor any other person appearing to have an interest in
10 the policy within the preceding three years, according to the records of the
11 company, has assigned, readjusted, or paid premiums on the policy,
12 subjected the policy to a loan, corresponded in writing with the company
13 concerning the policy, or otherwise indicated an interest as evidenced by a
14 memorandum or other record on file prepared by an employee of the
15 company.
- 16 4. For purposes of this chapter, the application of an automatic premium loan provision or
17 other nonforfeiture provision contained in an insurance policy does not prevent a
18 policy from being matured or terminated under subsection 1 if the insured has died or
19 the insured or the beneficiary of the policy otherwise has become entitled to the
20 proceeds thereof before the depletion of the cash surrender value of a policy by the
21 application of those provisions.
- 22 5. If the laws of this state or the terms of the life insurance policy require the company to
23 give notice to the insured or owner that an automatic premium loan provision or other
24 nonforfeiture provision has been exercised and the notice, given to an insured or
25 owner whose last known address according to the records of the company is in this
26 state, is undeliverable, the company shall make a reasonable search to ascertain the
27 policyholder's correct address to which the notice must be mailed.
- 28 6. Notwithstanding any other provision of law, if the company learns of the death of the
29 insured or annuitant and the beneficiary has not communicated with the insurer within
30 four months after the death, the company shall ~~take reasonable steps to pay the~~
31 ~~proceeds to the beneficiary.~~

- 1 a. Complete a good-faith effort, which the company shall document, to confirm the
2 death of the insured or annuitant against other available records and information;
3 and
4 b. Determine whether benefits are due in accordance with the applicable insurance
5 policy or annuity contract, and if benefits are due in accordance with the
6 applicable policy or contract the company shall:
7 (1) Use good-faith efforts, which the company shall document, to locate the
8 beneficiary or beneficiaries; and
9 (2) Provide the appropriate claims forms or instructions to the beneficiary or
10 beneficiaries to make a claim, including the need to provide an official death
11 certificate, if applicable under the policy or contract.
12 7. ~~Commencing two years after July 1, 1985, every~~Every change of beneficiary form
13 issued by an insurance company under any life or endowment insurance policy or
14 annuity contract to an insured or owner who is a resident of this state must request the
15 following information:
16 a. The name of each beneficiary, or if a class of beneficiaries is named, the name of
17 each current beneficiary in the class;
18 b. The address of each beneficiary; and
19 c. The relationship of each beneficiary to the insured.