

# Unclaimed Life Insurance Benefits Act

DATE \_\_\_\_\_

BILL NO. \_\_\_\_\_

SENATE TAXATION

EXHIBIT NO. 1DATE 1-11-2013BILL NO. 34

## SB 34 · Summary

### Purpose

The purpose of the Unclaimed Life Insurance Benefits Act is to provide a specific statutory framework for how life insurance companies: (1) determine whether their insureds are deceased; (2) determine if there are any beneficiaries; (3) pay beneficiaries; and (4) in the event that it did not reasonably locate beneficiaries, submit unclaimed life insurance proceeds to the Department of Revenue as unclaimed property. For all of these steps, the bill requires an insurer to adopt and implement reasonable procedures to ensure compliance.

### Death Master File

The bill requires insurance companies to compare, at least twice a year, its life insurance policies, annuity contracts, and retained asset accounts against the Social Security Administration's death master file. Insurance companies can use the death master file to determine that a person has reportedly died. If an insurance company finds a match between its policy holder and the death master file, the company has 90 days to determine if any benefits are due to any beneficiaries. If it is determined that benefits are due, the bill requires the company to use reasonable procedures to find the beneficiary.

### Montana's Experience

Recent national market conduct examinations have revealed that insurance companies are not reasonably trying to locate and pay beneficiaries of life insurance policies. Indeed, Montana's Commissioner of Securities & Insurance has entered into several national agreements with life insurers to remedy their failure to pay benefits.

Existing Montana unclaimed property laws, require life insurance benefits to be turned over to the state. However, there are no specific laws governing how an insurer identifies beneficiaries of unclaimed benefits.

### Unclaimed Benefits Held by the State

When a life insurance company has exhausted all reasonable efforts to locate a beneficiary, SB34 requires the benefit to be turned over to the State of Montana as unclaimed property. Unclaimed property is deposited in the general fund and remains there indefinitely until the owner of the property comes forward to claim it. As with all unclaimed property in the general fund, the state does benefit from interest earned on the unclaimed life insurance payment that is turned over as unclaimed property, but the original amount of unclaimed property is always available for the rightful owner to claim.

Montana reports unclaimed property to MissingMoney.com, a database of governmental unclaimed property records. This centralized unclaimed property database makes it easier for Montanans to search for unclaimed property, including any unclaimed life insurance benefits.

In some cases, individuals who believe they are owed a life insurance benefit may not know what company issued the policy. It is virtually impossible for an individual who thinks they have an unclaimed life insurance benefit to contact all possible life insurance companies after the death of an insured. By turning the money over to the state, a potential beneficiary can search the unclaimed property databases for any unclaimed life insurance benefit.

(continued)

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## NCOIL Model Bill

SB34 is bill adapted from a model law approved by the National Conference of Insurance Legislators (NCOIL). Four states including Alabama, Kentucky, Maryland and New York enacted similar legislation in 2012.

State Name	Bill No.	Date Introduced	Date Passed
Kentucky	KY BR 487, HB 135	12/16/2011	4/13/2012
Maryland	MD SB 77	1/16/2012	5/2/2012
Alabama	AL HB 126	2/2/2012	5/15/2012
New York	NY SB 6943, AB 9845	4/16/2012	12/17/2012
Montana	SB34	11/23/2012	Pending

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# Unclaimed Life Insurance Benefits Act

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## SB34 - Introduction

### The Problem

State insurance regulators, including Montana's Commissioner of Securities & Insurance, have found that some insurance companies do not make it a priority to search for and locate beneficiaries of unclaimed life insurance benefits. Regulators are also finding that insurance companies are using death master files, such as the one maintained by the Social Security Administration, to find out when their customers receiving annuity payments die. This allows the company to quickly know when to stop paying annuities to the deceased.

However, some insurance companies who use the death files to find out if they can stop making payments on annuities do not use the same file to search for people who may be owed a life insurance benefit from the company. As a result, millions of dollars in unclaimed benefits are not being paid out and remain with the company.

Purposely not determining that someone has died allows life insurers to draw down the cash value in a permanent life policy to pay the annual premiums until it's gone, at which point the policy is canceled and no benefit is left. If the death of a term life policyholder is ignored, the insurer can continue to collect interest on the money until someone claims it.

In 2012, Montana's Commissioner entered into a multi-state regulatory settlement agreement with one major insurer. The states alleged that when the insurer checked the Social Security Administration's death master file, it resulted in \$49 million paid in 1998 and \$370 million paid in 2002.

If companies are not required to make reasonable efforts to find owners of unclaimed benefits, Montanans will continue to be denied unclaimed benefits they may be entitled to receive. Requiring insurers to take reasonable efforts in their search will level the playing field for all insurers and remove the competitive advantage now held by companies that intentionally neglect to seek out those entitled to unclaimed benefits.

### The Solution – SB34

The National Conference of Insurance Legislators (NCOIL) developed a solution called the Unclaimed Life Benefits Act. This model law was used as the basis for SB34, which establishes a level playing field for all insurers and sets a statutory requirement for what consists of a reasonable effort for insurers.

The purpose of the Unclaimed Life Insurance Benefits Act is to provide a specific statutory framework for how life insurance companies: (1) determine whether their insureds are deceased; (2) determine if there are any beneficiaries; (3) pay beneficiaries; and (4) in the event that it did not reasonably locate beneficiaries, submit unclaimed life insurance proceeds to the Department of Revenue as unclaimed property. For all of these steps, the bill requires an insurer to adopt and implement reasonable procedures to ensure compliance.

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# Unclaimed Life Insurance Benefits

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## SB 34 · Section-by-Section Summary

**Section 1**     **Short Title** "Unclaimed Life Insurance Benefits Act".

**Section 2**     **Purpose:** This section lays out the purpose of the bill, which will provide a statutory framework regulating how life insurance companies: (1) determine whether their insureds are deceased; (2) determine if there are any beneficiaries; (3) pay beneficiaries; and/or (4) submit unclaimed life insurance proceeds to the Department of Revenue as unclaimed property – in the event that it did not reasonably locate beneficiaries. For all of these steps, the bill requires an insurer to adopt and implement reasonable procedures to ensure compliance.

**Section 3**     **Applicability.** The bill applies to life insurance and annuities. The law, if passed, cannot be used to limit current and future agreements with the Commissioner and insurance companies, regarding life insurance benefits.

**Section 4**     **Definitions.** This section defines what policies are covered under the bill. Largely, the definition of "Policy" applies to any policy or certificate life insurance which provides a death benefit. Because this definition is encompassing and could create confusion, the term then exempts the following: employee benefit plans exempted by ERISA; any policy under any Federal employee benefit program (which would be federally exempted); any policy used to fund a preneed funeral contract or prearrangement (governed elsewhere in the Insurance Code); and any policy or certificate of credit life or accidental death insurance (similarly governed elsewhere in the Insurance Code). Similarly, the definition of "Contract" broadly defines any annuity contract. Like with the definition of "Policy," this definition exempts an annuity which would be preempted under ERISA. The section also defines "Death master file" and "Death Master File Match." The purpose of these definitions serve to identify how an insurer will determine if its insureds are deceased by requiring them to check these sources.

**Section 5**     **Insurer conduct.** This section builds the framework for procedures life insurance companies must take in order to identify if their customers have died by comparing their records with a death master file, and then determine whether any benefits are to be paid. If benefits are to be paid, the section provides for steps companies must take to identify beneficiaries, and, if none are located, steps for turning the unclaimed benefit to the state as unclaimed property.

**Section 6**     **Unfair trade practices:** This section allows the Commissioner to take action against an insurer for any business practice in violation of this law. This largely means an insurer has not taken reasonable measures to determine if insureds are deceased, locate beneficiaries, pay beneficiaries, and/or submit unclaimed property to the State. This section also leaves open the possibility for an individual to bring an action against an insurer for failure to comply with the law.

**Section 7**     **Codification:** This law would be part of Title 33. The code that regulates insurance in Montana.

**Section 8**     **Effective date of January 1, 2014.** The delayed effective date serves to give insurance companies a reasonable amount of time to implement procedures.

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