

SENATE BILL NO. 34

INTRODUCED BY M. CAFERRO

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE UNCLAIMED LIFE INSURANCE BENEFITS ACT; PROVIDING THAT UNCLAIMED DEATH BENEFITS ESCHEAT TO THE STATE OF MONTANA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 6] may be cited as the "Unclaimed Life Insurance Benefits Act".

NEW SECTION. **Section 2. Purpose.** The purposes of [sections 1 through 6] are to require recognition of the escheat or unclaimed property statutes of Montana and to require complete and proper disclosure, transparency, and accountability relating to any method of payment for life insurance death benefits regulated by the commissioner.

NEW SECTION. **Section 3. Applicability.** (1) [Sections 1 through 6] apply to life insurance policies, annuity contracts, certificates under a life insurance policy or annuity contract, or certificates issued to a fraternal benefit society under which benefits are payable upon the death of the insured.

(2) [Sections 1 through 6] may not be construed to limit any agreement by the commissioner with a company regarding unclaimed life insurance benefits.

(3) For the purposes of [sections 1 through 6], the term "annuity contract" does not include an annuity used to fund an employment-based retirement plan or program when the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

NEW SECTION. **Section 4. Definitions.** As used in [sections 1 through 6], the following definitions apply:

(1) (a) "Certificate under a life insurance policy" means a certificate of life insurance that provides a death

1 benefit.

2 (b) The term does not include a certificate of life insurance that provides a death benefit under an  
3 ~~employee benefit plan that is:~~

4 (i) AN EMPLOYEE BENEFIT PLAN THAT IS subject to the Employee Retirement Income Security Act of 1974,  
5 29 U.S.C. 1001, et seq.;

6 (ii) ~~under~~ any federal employee benefit program;

7 (iii) A POLICY OR CERTIFICATE used to fund a preneed funeral contract or prearrangement; or

8 (iv) a policy or certificate of credit life insurance or accidental death insurance.

9 (2) "Death master file" means the social security administration's death master file or any other database  
10 or service at least as comprehensive as the social security administration's death master file used for determining  
11 that a person has reportedly died.

12 (3) "MATCH" MEANS A SEARCH OF THE DEATH MASTER FILE THAT RESULTS IN A MATCH OF THE SOCIAL SECURITY  
13 NUMBER OR THE NAME AND DATE OF BIRTH OF AN INSURED, ANNUITANT, OR RETAINED ASSET ACCOUNT OWNER.

14 ~~(3)(4)~~ "Policy" means a policy that provides a death benefit. The term does not include a policy that  
15 provides a death benefit under ~~an employee benefit plan that is:~~

16 (a) AN EMPLOYEE BENEFIT PLAN THAT IS subject to the Employee Retirement Income Security Act of 1974,  
17 29 U.S.C. 1001, et seq.;

18 (b) ~~under~~ any federal employee benefit program;

19 (c) A POLICY OR CERTIFICATE OF INSURANCE used to fund a preneed funeral contract or prearrangement;

20 ~~or~~

21 (d) a policy or certificate of credit life insurance or accidental death insurance; OR

22 (E) A POLICY ISSUED TO A GROUP MASTER POLICYHOLDER FOR WHICH THE INSURER DOES NOT PROVIDE  
23 RECORDKEEPING SERVICES.

24  
25 NEW SECTION. Section 5. Insurer conduct. (1) An insurer shall perform a comparison of life  
26 insurance policies, annuity contracts, and retained asset accounts that are in force for its insureds against a death  
27 master file on at least a semiannual basis to identify potential matches of its insureds. For any potential matches,  
28 the insurer shall within 90 days:

29 (a) make a reasonable effort, documented by the insurer, to confirm the death of the insured, annuity  
30 contract holder, or retained asset account holder; and

- 1 (b) determine whether benefits are due in accordance with the applicable policy or contract.
- 2 (2) If benefits are due in accordance with the applicable policy or contract, the insurer shall:
- 3 (a) use reasonable efforts, documented by the insurer, to locate the beneficiary; and
- 4 (b) provide the appropriate claims forms or instructions to the beneficiary to make a claim, including the
- 5 requirement to provide an official death certificate, if applicable under the policy or contract.
- 6 (3) With respect to group life insurance, an insurer is required to confirm the possible death of an insured
- 7 when the insurer maintains at least the following information with regard to those covered under a policy or
- 8 contract:
- 9 (a) social security number or name and date of birth;
- 10 (b) beneficiary designation information;
- 11 (c) coverage eligibility;
- 12 (d) benefit amount; and
- 13 (e) premium payment status.
- 14 (4) To the extent permitted by law, an insurer may disclose minimum necessary personal information
- 15 about an insured or beneficiary to a person the insurer reasonably believes may be able to assist the insurer in
- 16 locating the beneficiary or a person otherwise entitled to payment of claim proceeds.
- 17 (5) An insurer or its service provider may not charge insureds, account holders, or beneficiaries for any
- 18 fees or costs associated with a search or verification conducted pursuant to this section.
- 19 (6) The benefits from a life insurance policy, an annuity contract, or a retained asset account, plus any
- 20 applicable accrued interest, must be first payable to the designated beneficiary. In the event the beneficiary
- 21 cannot be found, the benefits escheat to the state as unclaimed property pursuant to Title 70, chapter 9, part 8.
- 22 (7) If claim proceeds are presumed abandoned pursuant to 70-9-803, the insurer shall notify the
- 23 department of revenue that:
- 24 (a) the beneficiary of a life insurance policy, annuity contract, or retained asset account has not submitted
- 25 a claim with the insurer; and
- 26 (b) the insurer has been unable, after ~~good faith~~ REASONABLE efforts documented by the insurer, to
- 27 contact the beneficiary.
- 28 (8) In addition to giving notice to the department of revenue, the insurer shall immediately submit the
- 29 unclaimed life insurance or annuity contract benefits or the unclaimed retained asset accounts, plus any
- 30 applicable accrued interest, to the department of revenue.

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2           NEW SECTION. **Section 6. Unfair trade practices.** A violation of the provisions of [section 5] by an  
3 insurer constitutes an unfair method of competition or a deceptive act or practice in the business of insurance as  
4 provided in Title 33, chapter 18, part 2.

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6           NEW SECTION. **Section 7. Codification instruction.** [Sections 1 through 6] are intended to be codified  
7 as an integral part of Title 33, chapter 15, and the provisions of Title 33, chapter 15, apply to [sections 1 through  
8 6].

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10           NEW SECTION. **Section 8. Effective date.** [This act] is effective January 1, 2014.

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