

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2015-236
SENATE BILL 665**

AN ACT TO ENACT THE NORTH CAROLINA UNCLAIMED LIFE INSURANCE
BENEFITS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 58 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 7. Unclaimed Life Insurance Benefits.

"§ 58-58-360. Purpose.

(a) This part shall be known as the "Unclaimed Life Insurance Benefits Act".

"§ 58-58-370. No preemption of Unclaimed Property Act.

Nothing in this Part shall be construed to amend, modify, or supersede the North Carolina Unclaimed Property Act, Article 4 of Chapter 116B of the General Statutes, including the authority of the North Carolina Department of State Treasurer to examine records and conduct an audit. Specifically, nothing in this Part shall restrict the authority of the North Carolina Department of State Treasurer to request or access records of an insurer and conduct an examination of the insurer's records under Chapter 116B of the General Statutes.

"§ 58-58-380. Definitions.

The following definitions apply in this Part:

- (1) Account owner. – The owner of a retained asset account opened by a resident of this State.
- (2) Active premium payment. – Payment of premiums for policies or annuities that the insurer receives from outside the policy value, by check, payroll deduction, or any other similar method of deliberate payment.
- (3) Annuity. – Any active annuity contract issued in this State, other than an annuity used to fund an employment-based retirement plan or program where (i) the insurer does not perform the record-keeping services, (ii) the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants, or (iii) the annuity is used to fund a preneed funeral contract as defined in G.S. 90-210.60.
- (4) Asymmetric conduct. – An insurer's selective use of information from the DMF prior to October 1, 2015, to identify whether certain persons are deceased, in order to terminate benefits, but not to determine whether insureds under the insurer's insurance policies in a non-active premium paying status are deceased for the purpose of paying benefits.
- (5) Beneficiary. – An individual or other entity entitled to benefits under a policy or annuity due to the death of the policy insured, annuity owner, annuitant, or account owner.
- (6) Death master file or DMF. – Any of the following:
 - a. The death master file from the United States Social Security Administration.
 - b. Any other database or service that an insurer may determine is substantially as inclusive as the death master file from the United States Social Security Administration for determining that a person has reportedly died.
- (7) Death master file match or DMF match. – A search of a DMF that results in a match of a person's Social Security number or name and date of birth.



- (8) Insurer. – Any insurance company authorized to transact life insurance business in this State.
- (9) Person. – The policy insured, annuity owner, annuitant, or account owner, as applicable under the policy, annuity, or retained asset account subject to this Part.
- (10) Policy. – any policy or certificate of life insurance issued in this State, but does not include any policy or certificate of life insurance that provides a death benefit under any of the following:
 - a. An employee benefit plan subject to the Employee Retirement Income Security Act of 1974, as periodically amended, compiled at 29 U.S.C. § 1002 et seq.
 - b. Any federal employee benefit program.
 - c. Government plans or church plans as defined in the Employee Retirement Income Security Act of 1974, as periodically amended, 29 U.S.C. § 1002 et seq.
 - d. A policy or certificate of life insurance that is used to fund a preneed funeral contract as defined in G.S. 90-210.60.
 - e. A policy or certificate of credit life or accident and health insurance.
- (11) Record-keeping services. – Those circumstances under which the insurer has agreed with a group life insurance policyholder to be responsible for obtaining, maintaining, and administering in its own systems information about each individual insured under the policyholder's group life insurance contract that includes at least all of the following items:
 - a. Individual insured's Social Security number or name and date of birth.
 - b. Beneficiary designation information.
 - c. Coverage eligibility.
 - d. Benefit amount.
 - e. Premium payment status.
- (12) Retained asset account. – An account created when a life insurance company pays the proceeds from a life insurance policy or annuity contract to a beneficiary by establishing an account containing those proceeds in name of and for use by the beneficiary.

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

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

(b) The requirements of subsection (a) of this section shall not apply to any of the following:

- (1) Policies or annuities for which the insurer has received an active premium payment within the 18 months immediately preceding the death master file comparison.
- (2) Any policies, annuities, or retained asset accounts issued or delivered prior to October 1, 2015, for which the insurer attests, in a sworn statement signed by an officer or director of the insurer that is subject to perjury and delivered to the Commissioner, that the insurer has done all of the following:
 - a. Not engaged in asymmetric conduct.
 - b. Has historically practiced compliance with the requirements of G.S. 58-63-15(11) with respect to the investigation, handling, and payment of policy proceeds.
 - c. Monitored the limiting age of each person, as stated in the policy, and performed its obligations under Chapter 116B of the General Statutes when an insured reached the limiting age.

(3) Group life insurance policies for which the insurer does not perform record-keeping services.

(c) An insurer may comply with the requirements of subsection (a) of this section by using the full death master file once and thereafter using the death master file update files for future comparisons.

(d) An insurer exempted under subdivision (b)(2) of this section shall comply with the requirements of subsection (a) of this section for all policies, annuities, or retained asset accounts issued or delivered on or after October 1, 2015.

(e) Within 90 days of learning of the possible death of a person, through a DMF match or otherwise, the insurer shall do all of the following:

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

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

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

(4) Locate the beneficiary or beneficiaries.

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

(6) Maintain documentation of all efforts to locate the beneficiary or person, as applicable.

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

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

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

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

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

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

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

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

In the General Assembly read three times and ratified this the 26th day of August, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 10:30 a.m. this 1st day of September, 2015