

1 SENATE BILL NO. 34

2 INTRODUCED BY M. CAFERRO

3 BY REQUEST OF THE STATE AUDITOR

4

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

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

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

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

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

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

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

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

30 (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) subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.;

5 (ii) under any federal employee benefit program;

6 (iii) used to fund a preneed funeral contract or prearrangement; or

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

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

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

13 (a) subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.;

14 (b) under any federal employee benefit program;

15 (c) used to fund a preneed funeral contract or prearrangement; or

16 (d) a policy or certificate of credit life insurance or accidental death insurance.

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

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

24 (b) determine whether benefits are due in accordance with the applicable policy or contract.

25 (2) If benefits are due in accordance with the applicable policy or contract, the insurer shall:

26 (a) use reasonable efforts, documented by the insurer, to locate the beneficiary; and

27 (b) provide the appropriate claims forms or instructions to the beneficiary to make a claim, including the
28 requirement to provide an official death certificate, if applicable under the policy or contract.

29 (3) With respect to group life insurance, an insurer is required to confirm the possible death of an insured
30 when the insurer maintains at least the following information with regard to those covered under a policy or

1 contract:

2 (a) social security number or name and date of birth;

3 (b) beneficiary designation information;

4 (c) coverage eligibility;

5 (d) benefit amount; and

6 (e) premium payment status.

7 (4) To the extent permitted by law, an insurer may disclose minimum necessary personal information
8 about an insured or beneficiary to a person the insurer reasonably believes may be able to assist the insurer in
9 locating the beneficiary or a person otherwise entitled to payment of claim proceeds.

10 (5) An insurer or its service provider may not charge insureds, account holders, or beneficiaries for any
11 fees or costs associated with a search or verification conducted pursuant to this section.

12 (6) The benefits from a life insurance policy, an annuity contract, or a retained asset account, plus any
13 applicable accrued interest, must be first payable to the designated beneficiary. In the event the beneficiary
14 cannot be found, the benefits escheat to the state as unclaimed property pursuant to Title 70, chapter 9, part 8.

15 (7) If claim proceeds are presumed abandoned pursuant to 70-9-803, the insurer shall notify the
16 department of revenue that:

17 (a) the beneficiary of a life insurance policy, annuity contract, or retained asset account has not submitted
18 a claim with the insurer; and

19 (b) the insurer has been unable, after good faith efforts documented by the insurer, to contact the
20 beneficiary.

21 (8) In addition to giving notice to the department of revenue, the insurer shall immediately submit the
22 unclaimed life insurance or annuity contract benefits or the unclaimed retained asset accounts, plus any
23 applicable accrued interest, to the department of revenue.

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

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

1 6].

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

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