

Senate Study Bill 3088 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON McCOY)

A BILL FOR

1 An Act relating to unclaimed life insurance death benefits,
2 providing penalties, and including effective date
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 507B.4C Unclaimed life insurance.

2 1. *Purpose.* The purpose of this section is to
3 require complete and proper disclosure, transparency, and
4 accountability relating to any method of payment for life
5 insurance death benefits regulated by the commissioner.

6 2. *Definitions.* As used in this section, unless the context
7 otherwise requires:

8 a. "*Account owner*" means the owner of a retained asset
9 account who is a resident of this state.

10 b. "*Annuity*" means an annuity contract issued in this state.
11 "*Annuity*" does not include any annuity contract used to fund an
12 employment-based retirement plan or program where the insurer
13 takes direction from the plan sponsor or plan administrator.

14 c. "*Authorized person*" means a policy owner, insured,
15 annuity owner, annuitant, or account holder, as applicable
16 under a policy, annuity, or retained asset account.

17 d. "*Death master file*" means the United States social
18 security administration's death master file or any other
19 database or service that is at least as comprehensive as the
20 United States social security administration's death master
21 file for determining that a person has died.

22 e. "*Death master file match*" means a search of the death
23 master file that results in a match of an authorized person's
24 name and social security number or an authorized person's name
25 and date of birth.

26 f. "*Insurer*" means a life insurance company regulated under
27 chapter 508.

28 g. "*Knowledge of death*" means receipt of an original or
29 valid copy of a certified death certificate or a death master
30 file match validated by a secondary source by the insurer.

31 h. "*Policy*" means any policy or certificate of life
32 insurance issued in this state. "*Policy*" does not include any
33 of the following:

34 (1) A policy or certificate of life insurance which provides
35 a death benefit under an employee benefit plan subject to the

1 federal Employee Retirement Income Security Act of 1974, Pub.
2 L. No. 93-406, as codified at 29 U.S.C. §1002 et seq.

3 (2) A policy or certificate of life insurance which provides
4 a death benefit under an employee benefit plan subject to a
5 federal employee benefit program.

6 (3) A policy or certificate of life insurance which is
7 used to fund a preneed plan for cemetery merchandise, funeral
8 merchandise, funeral services, or a combination thereof.

9 (4) A policy or certificate of credit life or accidental
10 death insurance.

11 (5) A policy issued to a group master policyowner for which
12 the insurer does not provide recordkeeping services.

13 *i. "Recordkeeping services"* means services provided by an
14 insurer who has entered into an agreement with a group policy
15 customer to be responsible for obtaining, maintaining, and
16 administering in the insurer's own recordkeeping systems at
17 least all of the following information about each individual
18 insured under the insured's group insurance contract or a line
19 of coverage thereunder:

20 (1) Social security number or name and date of birth.

21 (2) Beneficiary designation information.

22 (3) Coverage eligibility.

23 (4) Benefit amount.

24 (5) Premium payment status.

25 *j. "Retained asset account"* means an interest-bearing
26 account set up by an insurer in the name of the beneficiary of a
27 policy or annuity upon the death of the insured.

28 3. *Insurer duties.*

29 *a.* For any in-force policy, annuity, or retained asset
30 account issued for delivery in this state for which the insurer
31 has not previously been notified of a claim, an insurer shall
32 perform a comparison of such policy, annuity, or retained asset
33 account against the death master file, on at least a semiannual
34 basis, to identify potential death master file matches.

35 (1) An insurer may comply with the requirements of this

1 subsection by using the full death master file for the initial
2 comparison and thereafter using the death master file update
3 files for subsequent comparisons.

4 (2) Nothing in this section shall be interpreted to limit
5 the right of an insurer to request a valid death certificate as
6 part of any claims validation process.

7 *b.* If an insurer learns of the possible death of an
8 authorized person through a death master file match or
9 otherwise, the insurer shall, within ninety days, do all of the
10 following:

11 (1) Complete a good faith effort, which shall be documented
12 by the insurer, to confirm the death of the authorized person
13 against other available records and information.

14 (2) Review the insurer's records to determine whether the
15 deceased authorized person had purchased any other products
16 from the insurer.

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

19 (4) If the beneficiary or an authorized person has not
20 communicated with the insurer within the ninety-day period,
21 take reasonable steps, which shall be documented by the
22 insurer, to locate and contact any beneficiary or other
23 authorized person on the policy, annuity, or retained asset
24 account, including sending the beneficiary or other authorized
25 person information regarding the insurer's claims process and
26 regarding the need to provide an official death certificate,
27 if applicable under the policy, annuity, or retained asset
28 account.

29 *c.* Every insurer shall implement procedures to account for
30 all of the following:

31 (1) Common nicknames, initials used in lieu of a first or
32 middle name, use of a middle name, compound first and middle
33 names, and interchanged first and middle names.

34 (2) Compound last names, maiden or married names, and
35 hyphens, blank spaces, or apostrophes in last names.

1 (3) Transposition of the month and date portions of the date
2 of birth.

3 (4) Incomplete social security numbers.

4 *d.* An insurer may disclose minimum necessary personal
5 information about a beneficiary or authorized person to an
6 individual or entity whom the insurer reasonably believes may
7 be able to assist the insurer in locating the beneficiary or
8 authorized person entitled to payment of the claims proceeds.

9 *e.* An insurer or its service provider shall not charge a
10 beneficiary or authorized person any fees or costs associated
11 with a death master file search conducted pursuant to this
12 section.

13 *f.* The benefits from a policy, annuity, or retained asset
14 account, plus any applicable accrued interest, shall first be
15 payable to designated beneficiaries or authorized persons,
16 and in the event that the beneficiaries or authorized persons
17 cannot be found, shall escheat to the state as unclaimed
18 property pursuant to chapters 556 and 633.

19 4. *Rules.* The commissioner shall adopt rules to administer
20 the provisions of this section.

21 5. *Orders.* The commissioner may issue an order doing any
22 of the following:

23 *a.* Limiting the death master file comparisons required
24 under subsection 3, paragraph "a", to an insurer's electronic
25 searchable files or approving a plan and timeline for
26 conversion of an insurer's files to electronic searchable
27 files.

28 *b.* Exempting an insurer from the death master file
29 comparisons required under subsection 3, paragraph "a",
30 or permitting an insurer to perform such comparisons less
31 frequently than semiannually upon a demonstration of financial
32 hardship by the insurer.

33 *c.* Phasing in requirements for compliance with this section
34 according to a plan and timeline approved by the commissioner.

35 6. *Unfair trade practice.* Failure to meet any requirement

1 of this section with such frequency as to constitute a general
2 business practice is an unfair method of competition and
3 an unfair or deceptive act or practice in the business of
4 insurance under this chapter.

5 7. *Insurer unclaimed property reporting.*

6 a. If an insurer identifies a person as deceased through
7 a death master file match as described in subsection 3,
8 paragraph "a", or other information source, and validates such
9 information through a secondary information source, the insurer
10 may report and remit the proceeds of the policy, annuity, or
11 retained asset account due to the state prior to the dates
12 required for such reporting and remittance under chapter 556,
13 without further notice to or consent by the state, after
14 attempting to contact any beneficiary under either of the
15 following circumstances:

16 (1) The insurer is unable to locate a beneficiary who is
17 located in this state under the policy, annuity contract, or
18 retained asset account, after conducting reasonable search
19 efforts of up to one year after the insurer's validation of the
20 death master file match.

21 (2) No beneficiary or person, as applicable for unclaimed
22 property reporting purposes under chapter 556, has a last known
23 address in this state.

24 b. Once the insurer has reported upon and remitted the
25 proceeds of the policy, annuity, or retained asset account to
26 the state pursuant to chapter 556, the insurer is relieved
27 and indemnified from any and all additional liability to any
28 beneficiary or authorized person relating to the proceeds
29 reported upon and remitted. This indemnification shall be in
30 addition to any other protections provided by law.

31 Sec. 2. Section 556.1, Code 2014, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 5A. "*Knowledge of death*" means the same as
34 defined in section 507B.4C.

35 Sec. 3. Section 556.3, subsection 2, Code 2014, is amended

1 to read as follows:

2 2. "~~Unclaimed funds,~~ funds", as used in this section, means
3 all moneys held and owing by any life insurance corporation
4 unclaimed and unpaid for more than three years after the
5 moneys became due and payable as established from the records
6 of the corporation under any life or endowment insurance
7 policy or annuity contract which has matured or terminated.
8 A life insurance policy not matured by actual ~~proof of the~~
9 knowledge of death of the insured is deemed to be matured and
10 the proceeds thereof are deemed to be due and payable if the
11 policy was in force when the insured attained the limiting
12 age under the mortality table on which the reserve is based
13 and shall be presumed abandoned and to be unclaimed funds as
14 defined in this section if unclaimed and unpaid for more than
15 two years thereafter, unless the person appearing entitled
16 thereto has within the two-year period assigned, readjusted, or
17 paid premiums on the policy, or subjected the policy to loan
18 or corresponded in writing with the life insurance corporation
19 concerning the policy. Moneys otherwise payable according
20 to the records of the corporation are deemed due and payable
21 although the policy or contract has not been surrendered as
22 required.

23 Sec. 4. EFFECTIVE DATE. This Act takes effect July 1, 2015.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill relates to unclaimed life insurance death
28 benefits. The purpose of the bill is to require complete and
29 proper disclosure, transparency, and accountability relating
30 to any method of payment for life insurance death benefits
31 regulated by the commissioner of insurance.

32 New Code section 507B.4C requires that for in-force life
33 insurance policies, annuities, and retained asset accounts
34 issued for delivery in this state, insurers must perform a
35 comparison of such documents against the United States social

1 security administration's death master file or file updates
2 at least semiannually to determine whether any policy owners,
3 insureds, annuity owners, annuitants, or account holders have
4 died. If an insurer learns of the possible death of such
5 a person, the insurer has 90 days to complete a good faith
6 effort to confirm the death against other available records
7 and information, review the insurer's records to see if the
8 deceased authorized person had purchased any other products
9 from the insurer, determine whether benefits are due, and take
10 reasonable steps to locate and contact any beneficiary or other
11 authorized person on the policy, annuity, or retained asset
12 account.

13 An insurer may disclose minimum necessary personal
14 information to individuals or entities who may be able to
15 assist in locating a beneficiary or other authorized person
16 entitled to payment of the claims proceeds. An insurer shall
17 not charge a beneficiary or other authorized person any fees or
18 costs associated with conducting a death master file search.
19 The claims proceeds shall first be payable to the designated
20 beneficiaries or authorized persons and if they cannot be
21 found, shall escheat to the state as unclaimed property
22 pursuant to Code chapters 556 (disposition of unclaimed
23 property) and 633 (probate code).

24 The insurance commissioner may adopt rules to implement the
25 provisions of the new Code section. The commissioner may issue
26 orders limiting the number of death master file comparisons
27 that an insurer is required to make and approving a plan and
28 timeline for conversion of the insurer's files to electronic
29 searchable files, exempting an insurer from the death master
30 file comparisons required or permitting an insurer to perform
31 such comparisons less frequently upon a demonstration of
32 financial hardship, or phasing in requirements for compliance
33 with the new requirements according to a plan and timeline
34 approved by the commissioner.

35 Failure to meet any of the new requirements with such

1 frequency as to constitute a general business practice is an
2 unfair method of competition and an unfair or deceptive act
3 or practice in the business of insurance and is punishable,
4 after notice and a hearing, by a summary cease and desist
5 order, imposition of a civil penalty of not more than \$1,000
6 for each violation, but not exceeding an aggregate of \$10,000,
7 suspension or revocation of applicable licenses, and a penalty
8 of not more than \$10,000 for each violation of a cease and
9 desist order.

10 If an insurer identifies a person as deceased through a death
11 master file match or other information source, and validates
12 such information through a secondary source, the insurer may
13 report and remit the proceeds due to the state prior to the
14 three-year period set forth in Code chapter 556 pertaining
15 to disposition of unclaimed property, without further notice
16 to or consent by the state, after attempting to contact any
17 beneficiary under either of the following circumstances: (1)
18 the insurer is unable to locate a beneficiary who is located
19 in this state under the policy, annuity, or retained asset
20 account, after conducting reasonable search efforts of up to
21 one year, or (2) no beneficiary or other person, as applicable
22 for unclaimed property reporting purposes, has a last known
23 address in the state. An insurer who reports on and remits
24 such proceeds in this manner is relieved and indemnified from
25 any and all additional liability relating to the proceeds.

26 Coordinating changes are made to Code chapter 556 pertaining
27 to disposition of unclaimed property. Code section 556.1
28 is amended to provide that for purposes of disposition of
29 unclaimed property under that Code chapter, "knowledge of
30 death" means the same as provided in new Code section 507B.4C.
31 Code section 556.3(2) is amended to refer to "knowledge of
32 death" instead of "proof of the death" pertaining to unclaimed
33 funds held by life insurance companies.

34 The bill takes effect July 1, 2015.