

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1857

By: Osborn (Leslie)

AS INTRODUCED

An Act relating to property; amending 60 O.S. 2011, Section 653, which relates to the Unclaimed Property Act; modifying provisions related to proceeds from certain life or endowment insurance policies or annuity contracts; imposing duty on insurers to make records comparisons; prescribing requirements for comparisons; providing for presumption of death; providing exception; providing method for determining certain policies, contracts or retained asset accounts in effect; providing exceptions; defining terms; imposing duty on insurers with respect to knowledge of death of insured persons, annuitants, or retained asset account holders; authorizing disclosure of certain information; prohibiting the imposition of certain costs related to searches, verifications, claims or funds delivery; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 60 O.S. 2011, Section 653, is amended to read as follows:

Section 653. (a) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than five (5) years after the ~~funds became due and payable as established from~~

1 ~~the records of the insurance company holding or owing the funds,~~
2 date of death of the insured, annuitant, or the retained asset
3 account holder but property described in paragraph ~~(2)~~ (3) of
4 subsection (c) of this section is presumed abandoned if unclaimed
5 for more than two (2) years.

6 (b) If a person other than the insured ~~or~~, annuitant, or the
7 retained asset account holder is entitled to the funds and an
8 address of the person is not known to the company or it is not
9 definite and certain from the records who is entitled to the funds,
10 it is presumed that the last-known address of the person entitled to
11 the funds is the same as the last-known address of the insured or
12 annuitant according to the records of the company.

13 (c) For purposes of this act, a life or endowment insurance
14 policy or annuity contract not matured by actual proof of death of
15 the insured, the annuitant, or the retained asset account holder
16 according to the records of the company is matured and the proceeds
17 due and payable if any of the following applies:

18 (1) the company knows that the insured ~~or~~, annuitant or the
19 retained asset account holder has died, ~~or~~;

20 (2) a presumption of death made in accordance with paragraph
21 (2) of subsection (h) of this section has not been rebutted;

22 (3) the policy or contract has reached its maturity date;
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1 (4) (A) the insured has attained, or would have attained if he
2 were living, the limiting age under the mortality
3 table on which the reserve is based,

4 (B) the policy was in force at the time the insured
5 attained, or would have attained, the limiting age
6 specified in subparagraph (A) of this paragraph, and

7 (C) neither the insured nor any person appearing to have
8 an interest in the policy within the preceding two (2)
9 years, according to the records of the company, has
10 assigned, readjusted, or paid premiums on the policy,
11 subjected the policy to loan, or corresponded in
12 writing with the company concerning the policy, or
13 otherwise indicated an interest as evidenced by a
14 memorandum or other record on file prepared by an
15 employee of the company.

16 (d) For purposes of this act, the application of an automatic
17 premium loan provision or other nonforfeiture provisions contained
18 in an insurance policy does not prevent a policy from being matured
19 or terminated under subsection (a) of this section if the insured
20 has died or the insured or the beneficiary of the policy otherwise
21 has become entitled to the proceeds thereof before the depletion of
22 the cash surrender value of a policy by the application of those
23 provisions.

1 (e) If the laws of this state or the terms of the life
2 insurance policy require the company to give notice to the insured
3 or the owner that an automatic premium loan provision or other
4 nonforfeiture provision has been exercised and the notice, given to
5 an insured or owner whose last-known address according to the
6 records of the company is in this state, is undeliverable, the
7 company shall make a reasonable search to ascertain the
8 policyholder's correct address to which the notice must be mailed.

9 (f) Notwithstanding any other provision of law, if the company
10 learns of the death of the insured ~~or~~, the annuitant, or the
11 retained asset account holder and the beneficiary has not
12 communicated with the insurer within four (4) months after the
13 death, the company shall take reasonable steps to pay the proceeds
14 to the beneficiary.

15 (g) Every change of beneficiary form issued by an insurance
16 company under any life or endowment insurance policy or annuity
17 contract to an insured or owner who is a resident of the state shall
18 include, but not be limited to:

19 (1) the name of each beneficiary, or if a class of
20 beneficiaries is named, the name of each current beneficiary in the
21 class;

22 (2) the address of each beneficiary;

23 (3) the relationship of each beneficiary to the insured~~+~~.
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1 (h) (1) Notwithstanding any other provision of law, an
2 insurer shall compare the records of its insureds' life or endowment
3 insurance policies, annuity contracts that provide a death benefit,
4 and retained asset accounts that were in force at any time on or
5 after January 1, 1992, against the United States Social Security
6 Death Master File once to determine whether the death of an insured,
7 an annuitant, or a retained asset account holder is indicated and
8 shall thereafter use the Death Master File update files for future
9 comparisons. The comparisons shall use the name and Social Security
10 number or date of birth of the insured, the annuitant, or the
11 retained asset account holder. The comparisons shall be made on at
12 least an annual basis before August 31 of each year. If an insurer
13 performs such comparisons regarding its annuities or other books of
14 business more frequently than once a year, the insurer shall also
15 make comparisons its life insurance policies, asset annuity
16 contracts that provide a death benefit, and retained asset accounts
17 at the same frequency as is made regarding its annuities or other
18 books or lines of business. An insurer may perform the comparisons
19 required by this paragraph using any database or service that the
20 Treasurer determines is at least as comprehensive as the United
21 States Social Security Death Master File for the purpose of
22 indicating that a person has died.

23 (2) An insured, annuitant, or a retained asset account holder
24 is presumed deceased if the date of his or her death is indicated by

1 the comparison required under paragraph (1) unless the insurer has
2 in its records competent and substantial evidence that the person is
3 living, including, but not limited to, a contract made by the
4 insurer with such person or his or her legal representative. The
5 insurer shall account for common variations in data and for any
6 partial names, Social Security numbers, dates of birth, and
7 addresses of the insured, the annuitant, or the retained asset
8 account holder which would otherwise preclude an exact match.

9 (3) For purposes of this section, a policy, an annuity
10 contract, or a retained asset account is deemed to be in force if it
11 has not lapsed, has not been canceled, or has not been terminated at
12 the time of death of the insured, annuitant, or the retained asset
13 account holder.

14 (4) This subsection does not apply to an insurer with respect
15 to benefits payable under:

16 (A) an annuity that is issued in connection with an
17 employment-based plan subject to the Employee
18 Retirement Income Security Act of 1974 or that is
19 issued to fund an employment-based retirement plan,
20 including any deferred compensation plan,

21 (B) a policy of credit life or accidental death insurance,

22 (C) a joint and survivor annuity contract if an annuitant
23 is still living,
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1 (D) a policy issued to a group master policy owner for
2 which the insurer does not perform recordkeeping
3 functions. For purposes of this subparagraph, the
4 term "recordkeeping" means those circumstances under
5 which the insurer has agreed through a group
6 policyholder to be responsible for obtaining,
7 maintaining, and administering, in its own or its
8 agents' systems, information about each individual
9 insured under a group insurance policy or a line of
10 coverage thereunder, including at least the following:

- 11 1. the Social Security number, or name and date of
12 birth,
- 13 2. beneficiary designation information,
- 14 3. coverage eligibility,
- 15 4. the benefit amount, and
- 16 5. premium payment status,

17 (E) any policy or certificate of life insurance that is
18 assigned to a person licensed under Section 6121 of
19 Title 36 of the Oklahoma Statutes to provide prepaid
20 funeral benefits,

21 (i) No later than one hundred twenty (120) days after learning
22 of the death of an insured, the annuitant, or the retained asset
23 account holder against through a comparison under subsection (h) of
24 this section, an insurer shall:

1. complete and document an effort to confirm the death of the insured, annuitant, or retained asset account holder against other available records and information,
2. review its records to determine whether the insured, annuitant, or the retained asset account holder purchased other products from the insurer,
3. determine whether benefits may be due under a policy, an annuity, or a retained asset account,
4. complete and document an effort to locate and contact the beneficiary or authorized representative under a policy, an annuity, or a retained asset account if such person has not communicated with the insurer before the expiration of the one-hundred-twenty-day period.

The effort shall include:

 - a. sending to the beneficiary or authorized representative information concerning the claim process of the insurer,
 - b. notice of any requirement to provide a certified original or copy of the death certificate if applicable under the policy, annuity, or retained asset account.

1 (j) An insurer may, to the extent permitted by law, disclose
2 the minimum necessary personal information about an insured,
3 annuitant, a retained asset account owner, or a beneficiary to an
4 individual or entity reasonably believed by the insurer to possess
5 the ability to assist the insurer in locating the beneficiary or any
6 other individual or entity that is entitled to payment of the claim
7 proceeds.

8 (k) An insurer, or any agent or third party that it engages or
9 that works on its behalf, may not charge insureds, annuitants,
10 retained asset account holders, beneficiaries of an estate any fees
11 or costs associated with any search, verification, claim, or
12 delivery of funds conducted pursuant to this section.

13 (l) With respect to any funds held or owing under any life or
14 endowment insurance policy or annuity contract presumed abandoned
15 pursuant to this section or property distributable in the course of
16 a demutualization or reorganization of an insurance company pursuant
17 to Section 653.1 of this title, the insurance company holding or
18 owing such funds shall provide any information reasonably requested
19 by the State Treasurer, if such information is reasonably available,
20 to assist the State Treasurer in its consideration of a claim
21 pursuant to Section 675 of this title.

SECTION 2. This act shall become effective November 1, 2017.

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