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SENATE BILL NO. 1305

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on February 4, 2015)

(Patron Prior to Substitute—Senator Reeves)

A BILL to amend and reenact § 55-210.4:01 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3114.1, relating to the disposition of unclaimed property; funds owing under a life insurance policy, annuity, or retained asset account; use of death master file.

Be it enacted by the General Assembly of Virginia:

1. That § 55-210.4:01 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3114.1 as follows:

§ 38.2-3114.1. Use of death master file; unclaimed property.

A. As used in this section, unless the context requires otherwise:

"Administrator" means the State Treasurer or his designee.

"Death master file" means the U.S. Social Security Administration's death master file or any other database or service that is at least as comprehensive as the U.S. Social Security Administration's death master file for determining that an individual has reportedly died.

"Death master file match" means a match, resulting from a search of the death master file, of an individual on the death master file and the name and social security number, or name and date of birth, of an insured, annuity owner, or retained asset account holder.

"Individual" means the insured under a life insurance policy, the contract holder under an annuity, or the account holder of a retained asset account.

"Life insurance policy" shall not include any (i) policy or certificate of life insurance that provides a death benefit under an employee benefit plan subject to the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002 et seq., as amended, or under any federal employee benefit program; (ii) policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement; (iii) policy or certificate of credit life or accidental death insurance; or (iv) policy issued to a group master policyholder for which the insurance company does not provide recordkeeping services.

"Recordkeeping services" means the services provided by an insurance company under the terms of an agreement with the policyholder of a group insurance contract under which the insurance company has agreed to be responsible for obtaining, maintaining, and administering, in the insurance company's own systems, information about each individual who is a covered person under the policyholder's group insurance contract, or a line of coverage under the group insurance contract, which information includes each such individual's (i) name and social security number or name and date of birth, (ii) beneficiary designation information, (iii) coverage eligibility, (iv) benefit amount, and (v) premium payment status.

B. Each insurance company, no less frequently than semiannually, shall perform a comparison of its in-force life insurance policies, annuities, and retained asset accounts issued in the Commonwealth after January 1, 2016, against a death master file to identify potential death master file matches as provided in this section.

C. An insurance company may comply with the requirements of this section by using the full death master file once and thereafter using death master file update files for subsequent comparisons.

D. This section shall not apply to any life insurance policy for which the insurance company is receiving premiums outside of the policy account value by check, bank draft, payroll deduction, or any other similar method of active premium payment within the 18 months immediately preceding death master file comparison.

E. Nothing in this section shall prevent an insurance company from requesting a valid death certificate as part of any claims validation process.

F. If an insurance company obtains information of the possible death of an individual through a death master file match or otherwise, then the insurance company, within 90 days of obtaining such information, shall:

1. Complete a good faith effort, which shall be documented by the insurance company, to verify the death of the individual through other available records and information;

2. Review its records to determine whether the individual, if the individual's death is confirmed, had purchased any other products with the insurance company; and

3. Determine, if the individual's death is confirmed, whether benefits may be due on account of the individual's death in accordance with any applicable life insurance policies, annuity, or retained asset account.

60 *If the individual's death is confirmed and a beneficiary of the deceased individual's coverage or*
61 *authorized representative of the deceased individual has not communicated with the insurance company*
62 *within the 90-day period, the insurance company shall take reasonable steps, which shall be documented*
63 *by the insurance company, to locate and contact the beneficiary or beneficiaries or authorized*
64 *representative on any such life insurance policy, annuity, or retained asset account. Reasonable steps*
65 *shall include sending the beneficiary information regarding the insurance company's claims process,*
66 *including the need to provide an official death certificate if applicable under the life insurance policy,*
67 *annuity, or retained asset account.*

68 *If the life insurance company is unable to confirm the death of the individual, the insurance company*
69 *may consider the policy, annuity, or retained asset account to be in force in accordance with its terms;*

70 *G. To the extent permitted by law, an insurance company may disclose minimum necessary personal*
71 *information about an individual or a beneficiary of the deceased individual's coverage to a person that*
72 *the insurance company reasonably believes may be able to assist the insurance company in locating the*
73 *beneficiary or an individual otherwise entitled to payment of the claims proceeds.*

74 *H. An insurance company shall not charge any beneficiary or other authorized representative for any*
75 *fees or costs associated with a death master file search or efforts conducted pursuant to this section to*
76 *verify the possible death of an individual about which the insurance company obtained information*
77 *through a death master file match or otherwise.*

78 *I. The benefits from a life insurance policy, annuity, or retained asset account, and any applicable*
79 *accrued contractual interest, shall first be payable to the designated beneficiaries or owners. If the*
80 *beneficiaries or owners cannot be found, (i) the benefits are presumed abandoned and the insurance*
81 *company shall report and remit such property to the administrator pursuant to the provisions of Article*
82 *4 (§ 55-210.12 et seq.) of Chapter 11.1 of Title 55 and (ii) interest payable under § 38.2-3115 on such a*
83 *life insurance policy, annuity, or retained asset account shall not be presumed abandoned and need not*
84 *be reported or remitted to the administrator pursuant to the provisions of Article 4 of Chapter 11.1 of*
85 *Title 55.*

86 *J. If an insurance company has identified an individual as possibly deceased through a death master*
87 *file match conducted pursuant to this section or other information source, has verified the death of the*
88 *individual through other available records and information, and either (i) is unable, after conducting*
89 *reasonable search efforts during a period of up to one year after the insurance company has verified the*
90 *death of the individual, to locate a beneficiary under the policy, annuity, or retained asset account who*
91 *is located in the Commonwealth or (ii) there exists no beneficiary under the policy, annuity, or retained*
92 *asset account and the deceased individual's last known address is in the Commonwealth, then the*
93 *insurance company is authorized to report and remit the proceeds of the policy, annuity, or retained*
94 *asset account to the administrator pursuant to the provisions of Article 4 (§ 55-210.12 et seq.) of*
95 *Chapter 11.1 of Title 55 on an early reporting basis, without further notice to or consent by the*
96 *administrator, after attempting to contact such beneficiary pursuant to this section. An insurance*
97 *company that has reported and remitted such proceeds to the administrator pursuant to this subsection*
98 *shall be relieved and indemnified from any and all additional liability to any person relating to the*
99 *proceeds reported and remitted, including any liability for all proceeds reported and remitted to the*
100 *administrator. This indemnification from liability provided to an insurance company under this*
101 *subsection shall be in addition to any other protections provided by law.*

102 *K. In the event that any resolution agreement, regulatory settlement agreement, or voluntary*
103 *disclosure agreement between an insurance company that has used the death master file to terminate*
104 *annuity payments but not to locate life insurance beneficiaries and the Commissioner or the*
105 *Administrator conflicts with this section, the terms of the agreement shall supersede this section.*

106 **§ 55-210.4:01. Funds owing under life insurance policies.**

107 *A. Funds held or owing under any life ~~or endowment~~ insurance policy ~~or~~, annuity contract ~~which~~, or*
108 *retained asset account holder that has matured or terminated are presumed abandoned if unclaimed for*
109 *more than five years after the funds became due and payable as established from the records of the*
110 *insurance company holding or owing the funds, except that property described in ~~subsection~~ subdivision*
111 *C 2 on or after confirmation of a death pursuant to § 38.2-3114.1 is presumed abandoned if unclaimed*
112 *for more than two years.*

113 *B. If a person other than the insured or annuitant is entitled to the funds and no address of the*
114 *person is known to the insurance company or it is not definite and certain from the records of the*
115 *insurance company who is entitled to the funds, it is presumed that the last known address of the person*
116 *entitled to the funds is the same as the last known address of the insured or annuitant according to the*
117 *records of the insurance company.*

118 *C. For purposes of this section, a life ~~or endowment~~ insurance policy ~~or~~, annuity contract, or*
119 *retained asset account not matured by actual proof of the death of the insured ~~or~~, annuitant, or account*
120 *holder according to the records of the insurance company is deemed matured and the proceeds due and*
121 *payable if:*

122 1. The *insurance* company ~~knows that the insured or annuitant has died~~ confirms the death of the
 123 *insured or annuitant as a result of actions taken pursuant to the requirements of § 38.2-3114.1*; or

124 2. (i) The insured has attained, or would have attained if he were living, the limiting age under the
 125 mortality table on which the reserve is based; (ii) the *life insurance* policy was in force at the time the
 126 insured attained, or would have attained, the limiting age specified in ~~paragraph~~ clause (i); and (iii)
 127 neither the insured nor any other person appearing to have an interest in the *life insurance* policy within
 128 the preceding two years, according to the records of the *insurance* company, has assigned, readjusted, or
 129 paid premiums on the *life insurance* policy, subjected the *life insurance* policy to a loan, corresponded
 130 in writing with the *insurance* company concerning the *life insurance* policy, or otherwise indicated an
 131 interest as evidenced by a memorandum or other record on file prepared by an employee of the
 132 *insurance* company.

133 D. For purposes of this section, the application of an automatic premium loan provision or other
 134 nonforfeiture provision contained in ~~an~~ a *life insurance* policy does not prevent a *life insurance* policy
 135 from being matured or terminated under subsection A if the insured has died or the insured or the
 136 beneficiaries of the *life insurance* policy otherwise have become entitled to the proceeds thereof before
 137 the depletion of the cash surrender value of a *life insurance* policy by the application of those
 138 provisions.

139 E. Notwithstanding any other provision of law, if the *insurance* company learns of the death of ~~the~~
 140 ~~insured or annuitant~~ *an individual* and the beneficiary has not communicated with the ~~insurer~~ *insurance*
 141 *company* within four months after the death, the *insurance* company shall take reasonable steps to locate
 142 the beneficiary and pay the proceeds to the beneficiary.

143 F. Commencing July 1, 1986, every change of beneficiary form issued by an insurance company
 144 under any life ~~or endowment~~ insurance policy ~~or~~, annuity ~~contract~~, *or retained asset account holder* to
 145 an insured ~~or~~, owner, *or account holder* who is a resident of ~~this~~ the Commonwealth must request the
 146 following information:

147 1. The name of each beneficiary, or if the class of beneficiaries is named, the name of each current
 148 beneficiary in the class;

149 2. The address of each beneficiary; and

150 3. The relationship of each beneficiary to the insured, *owner, or account holder*.