

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 312

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO INSURANCE; REQUIRING INSURERS TO MAKE GOOD FAITH EFFORTS TO LOCATE BENEFICIARIES AND PROVIDE CLAIM MATERIALS; PROVIDING THAT UNCLAIMED BENEFITS ESCHEAT TO THE STATE; CLARIFYING THAT CERTIFICATES OF PROPERTY OR CASUALTY INSURANCE ARE NOT INSURANCE POLICIES; SPECIFYING TERMS FOR CERTIFICATES OF PROPERTY OR CASUALTY INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 59A, Article 16 NMSA 1978 is enacted to read:

"[NEW MATERIAL] UNCLAIMED LIFE INSURANCE BENEFITS.--

A. As used in this section:

(1) "contract" means an annuity contract but excludes annuity contracts used to fund employment-based retirement plans or programs in which the insurer is not

underscored material = new  
~~[bracketed material] = delete~~

underscoring material = new  
~~[bracketed material] = delete~~

1 committed by the terms of the annuity contract to pay a death  
2 benefit to the beneficiaries of specific plan participants;

3 (2) "death master file" means the federal  
4 social security administration's death master file or another  
5 database or service for determining that a person has died and  
6 that is at least as comprehensive as the federal social  
7 security administration's death master file;

8 (3) "match" means a search of a death master  
9 file that results in a match of the social security number or  
10 the name and date of birth of an insured, annuity owner or  
11 retained asset account holder; and

12 (4) "policy" means a policy or certificate of  
13 life insurance that provides a death benefit, but excludes  
14 policies or certificates of credit life or accidental death  
15 insurance and policies or certificates of life insurance that  
16 provide a death benefit pursuant to an employee benefit plan  
17 that are:

18 (a) subject to the federal Employee  
19 Retirement Income Security Act of 1974, as amended;

20 (b) under a federal employee benefit  
21 program; or

22 (c) used to fund a preneed funeral  
23 contract or funeral prearrangement.

24 B. At least twice a year, an insurer shall  
25 crosscheck its insureds' in-force life insurance policies and

.191267.3

underscoring material = new  
~~[bracketed material] = delete~~

1 retained-asset accounts against a death master file to identify  
2 potential matches. For each potential match, within ninety  
3 days, the insurer shall:

4 (1) make and document a good faith effort to  
5 confirm the death of the insured or retained-asset account  
6 holder by using other available records and information;

7 (2) determine whether the applicable policy or  
8 contract provides for the payment of a death benefit. If the  
9 payment of a death benefit is required, the insurer shall:

10 (a) make and document a good faith  
11 effort to locate the beneficiary or beneficiaries; and

12 (b) provide to the beneficiary or  
13 beneficiaries the appropriate claim forms or instructions for  
14 making a claim, including the need to provide an official death  
15 certificate if required by the policy or contract; and

16 (3) in the case of group life insurance,  
17 confirm the possible death of an insured; provided that the  
18 insurer maintains at least the following information about  
19 those covered under a policy or certificate:

20 (a) social security number, or name and  
21 date of birth;

22 (b) beneficiary designation information;

23 (c) coverage eligibility;

24 (d) benefit amount; and

25 (e) premium payment status.

.191267.3

underscoring material = new  
~~[bracketed material] = delete~~

1           C. To the extent permitted by law, an insurer may  
2 disclose the minimum information about the insured or the  
3 beneficiary that is necessary to locate a beneficiary or  
4 another person entitled to receive a payment of the claims  
5 proceeds to a person whom the insurer reasonably believes could  
6 assist the insurer in locating the beneficiary or another  
7 person entitled to receive a payment of the claims proceeds.  
8 An insurer or its service provider shall not charge an insured,  
9 an account holder or a beneficiary for a search or confirmation  
10 conducted pursuant to this subsection.

11           D. The benefits from a life insurance policy or a  
12 retained asset account, plus any applicable accrued interest,  
13 shall be payable pursuant to the terms of the contract or, if  
14 applicable, in accordance with probate law. If the proper  
15 recipients of a life insurance policy or a retained asset  
16 account cannot be found, the benefits shall escheat to New  
17 Mexico as unclaimed property pursuant to the Uniform Unclaimed  
18 Property Act (1995). Upon the expiration of the statutory time  
19 period for escheat, an insurer shall notify the taxation and  
20 revenue department that a life insurance policy beneficiary or  
21 retained asset account holder has not submitted a claim with  
22 the insurer and the insurer has complied with the provisions of  
23 Subsection B of this section and has been unable to contact the  
24 retained asset account holder, beneficiary or beneficiaries.  
25 Upon notifying the taxation and revenue department, the insurer

.191267.3

underscoring material = new  
~~[bracketed material] = delete~~

1 shall submit the unclaimed life insurance benefits or unclaimed  
2 retained asset accounts, plus any applicable accrued interest,  
3 to the taxation and revenue department pursuant to the Uniform  
4 Unclaimed Property Act (1995)."

5 SECTION 2. A new section of Chapter 59A, Article 18 NMSA  
6 1978 is enacted to read:

7 "[NEW MATERIAL] CERTIFICATES OF PROPERTY OR CASUALTY  
8 INSURANCE.--

9 A. As used in this section:

10 (1) "certificate of insurance" means any  
11 document or instrument prepared or issued by an insurer or  
12 insurance producer as evidence of property or casualty  
13 insurance coverage, but excludes an insurance policy, insurance  
14 binder, policy endorsement or automobile insurance  
15 identification or information card; and

16 (2) "insurance producer" means a person  
17 required to be licensed pursuant to the laws of New Mexico to  
18 sell, solicit or negotiate property or casualty insurance.

19 B. A person shall not prepare, issue or require the  
20 issuance of a certificate of insurance on property, operations  
21 or risks located in New Mexico unless an insurer or an agent of  
22 an insurer has filed the certificate of insurance form with the  
23 superintendent at least sixty days before its proposed  
24 effective date. The superintendent shall review any filing  
25 made pursuant to this subsection within sixty days of the

.191267.3

underscoring material = new  
~~[bracketed material]~~ = delete

1 filing date. The superintendent shall prohibit the use of a  
2 certificate of insurance form if the form:

- 3 (1) is unfair, misleading or deceptive;  
4 (2) violates public policy; or  
5 (3) violates any law, including any rule  
6 promulgated by the superintendent.

7 C. If the superintendent prohibits a certificate of  
8 insurance form during the sixty-day review period, the  
9 superintendent shall give the insurer written notice of the  
10 disapproval, stating the grounds for disapproval. After the  
11 expiration of the sixty-day review period, a filing shall be  
12 deemed to meet the requirements of this section to become  
13 effective unless prohibited pursuant to this section.

14 D. An individual insurer shall not be required to  
15 file a certificate of insurance form if that form is:

16 (1) the current edition of a standard  
17 certificate of insurance form that is promulgated by the  
18 association for cooperative operations research and  
19 development, the American association of insurance services or  
20 the insurance services office and that is filed with and  
21 approved by the superintendent pursuant to Subsection E of this  
22 section; or

23 (2) a certificate of insurance form whose  
24 content and wording are specifically provided for by federal  
25 law or regulation or a law or rule of New Mexico.

.191267.3

underscoring material = new  
~~[bracketed material] = delete~~

1           E. The superintendent shall review any filing made  
2 pursuant to Paragraph (1) of Subsection D of this section  
3 within sixty days of the filing date. A filing made pursuant  
4 to Paragraph (1) of Subsection D of this section shall not be  
5 used until approved by the superintendent. The superintendent  
6 shall approve any form if the superintendent finds that it  
7 complies with the Insurance Code. After the expiration of the  
8 sixty-day review period, a filing shall be deemed to meet the  
9 requirements of this section to become effective unless  
10 disapproved pursuant to this subsection.

11           F. A filing submitted pursuant to this section  
12 shall be filed electronically. The superintendent may  
13 designate an entity to receive the electronic filings submitted  
14 pursuant to this section.

15           G. A certificate of insurance is not an insurance  
16 policy and does not affirmatively or negatively amend, extend  
17 or alter the coverage afforded by the policy to which the  
18 certificate of insurance refers. A certificate of insurance  
19 shall not confer to any person new or additional rights beyond  
20 the express provisions of the insurance policy to which it  
21 refers.

22           H. A person shall not:  
23               (1) alter or modify a certificate of insurance  
24 form filed with the superintendent; or  
25               (2) prepare, issue or require the issuance of

.191267.3

underscoring material = new  
~~[bracketed material] = delete~~

1 a certificate of insurance that:

2 (a) contains any false or misleading  
3 information concerning the insurance policy to which the  
4 certificate of insurance refers; or

5 (b) purports to affirmatively or  
6 negatively alter, amend or extend the coverage provided by the  
7 insurance policy to which the certificate of insurance refers.

8 I. A contract number or description in a  
9 certificate of insurance shall not indicate that the insurance  
10 policy complies with the insurance or indemnification  
11 requirements of a contract. A person shall not certify in a  
12 certificate of insurance that the insurance policy to which it  
13 refers complies with the insurance or indemnification  
14 requirements of a contract.

15 J. An insurer or insurance producer shall notify a  
16 person of the cancellation or nonrenewal of or material change  
17 to an insurance policy only if that person has the right to  
18 notice pursuant to the terms of the insurance policy or an  
19 endorsement to an insurance policy. The insurance policy or  
20 endorsement to an insurance policy shall govern the terms and  
21 conditions of the notice. A certificate of insurance shall not  
22 alter the terms and conditions of the notice.

23 K. The provisions of this section apply to all  
24 certificates of insurance issued in connection with property,  
25 operations or risks in New Mexico, regardless of the location

.191267.3



underscoring material = new  
~~[bracketed material] = delete~~

1 of the policyholder, insurer, insurance producer or person  
2 requiring the issuance of a certificate of insurance.

3 L. A certificate of insurance or any other document  
4 or correspondence prepared, issued or required in violation of  
5 this section shall be void."

6 SECTION 3. SEVERABILITY.--If any part or application of  
7 the provisions of this act is held invalid, the remainder or  
8 its application to other situations or persons shall not be  
9 affected.

10 SECTION 4. EFFECTIVE DATE.--The effective date of the  
11 provisions of this act is July 1, 2013.