

Amendment No. 191

Assembly Amendment to Assembly Bill No. 226

(BDR 57-588)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

JMM/MSN



Date: 4/16/2013

A.B. No. 226—Enacts provisions governing certain policies of insurance, annuities and retained asset accounts. (BDR 57-588)



ASSEMBLY BILL NO. 226—ASSEMBLYWOMAN
BUSTAMANTE ADAMS

MARCH 11, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Enacts provisions governing certain policies of insurance, annuities, benefit contracts and retained asset accounts. (BDR 57-588)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~
is material to be omitted.

AN ACT relating to insurance; requiring an insurer to request certain information from its insureds, annuity holders and retained asset account holders; requiring an insurer to perform a comparison of the insurer's life insurance policies, annuities, benefit contracts and retained asset accounts against the Death Master File from the Social Security Administration or other approved database; requiring an insurer to perform certain actions if a comparison with the Death Master File results in a match with an insured, annuity holder or retained asset account holder; requiring an insurer to notify the State Treasurer of certain unclaimed benefits which revert by escheat to the State and to transfer the unclaimed benefit to the State Treasurer; authorizing the Commissioner of Insurance to issue certain orders relating to certain duties of an insurer; providing that certain violations may constitute an unfair trade practice; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs the business of conducting insurance in this State. (Title 57 of NRS) Existing law further regulates the duties of insurers who issue policies of life insurance and annuities in this State. (Chapter 688A of NRS) This bill sets forth new provisions concerning establishing the identity and death of an insured or beneficiary and the payment of death benefits under a policy of life insurance, annuity or retained asset account.

Sections ~~14~~ 2.5-6 of this bill define the terms "benefit contract," "Death Master File," "insured," "policy of life insurance" and "retained asset account" for the purposes of this bill. Section 7 of this bill requires an insurer, on or before the effective date of a life insurance policy, ~~for~~ annuity or benefit contract or on or before the date a retained asset account is established, to request from its insureds, annuity contract holders and retained asset account holders sufficient information to ensure that all benefits are distributed to the correct person upon the death of the insured, annuity holder or retained asset account holder. ~~Section~~ With certain exceptions, section 8 of this bill requires an insurer, at least semiannually, to perform

a comparison of the names on the Death Master File from the Social Security Administration with its insureds' life insurance policies, annuities, benefit contracts and retained asset accounts to identify potential matches. If an insurer identifies a potential match through a search of the Death Master File, **section 8** requires an insurer to: (1) make a reasonable effort to confirm the death of the insured, annuity holder or retained asset account holder; and (2) determine whether death benefits are due in accordance with the applicable policy or contract. If benefits are due, **section 8** also requires an insurer to: (1) make a reasonable effort to locate each beneficiary; (2) provide each beneficiary with the appropriate claim forms and instructions that detail the procedure for making a claim; and (3) process any claims received accordingly. Section 9.3 of this bill requires an insurer to notify the State Treasurer upon the reversion by escheat of a benefit under a policy of life insurance or an annuity and transfer to the State Treasurer the unclaimed benefit as soon as practicable after providing notice. Section 9.5 of this bill authorizes the Commissioner of Insurance to issue certain orders modifying the duties of an insurer under the provisions of this bill. Section 9.7 provides that the failure of an insurer to comply with the provisions of this bill may constitute an unfair trade practice.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections ~~2.5~~ 2.5 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 2.5. "Benefit contract" has the meaning ascribed to it in NRS 695A.003.

Sec. 3. *"Death Master File" means the Death Master File from the Social Security Administration or any other database or service which is at least as comprehensive as the Death Master File from the Social Security Administration and which is acceptable to the Commissioner for determining that a person has reportedly died.*

Sec. 4. *"Insured" means:*

1. *A person covered by a policy of life insurance;*
2. *A holder of a retained asset account; ~~for~~*
3. *An annuitant or other owner of an annuity, when the annuity provides for benefits to be paid or other money to be distributed upon the death of the annuitant or other owner of the annuity ~~for~~; or*
4. *A person covered by a benefit contract under which contractual death benefits are payable to a beneficiary pursuant to NRS 695A.180.*

Sec. 5. 1. *"Policy of life insurance" means any policy, contract or certificate of life insurance that provides a death benefit.*

2. *The term does not include:*

(a) ~~*Any policy or certificate of life insurance that provides a death benefit under an employee benefit program which is subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002, as periodically amended or provided pursuant to any federal employee benefit program;*~~

~~*(b) A policy or certificate of life insurance that is used to fund a preneed contract or sales agreement for funeral or burial services pursuant to chapter 689 of NRS; or*~~

~~*(c) A policy or certificate of credit life insurance or credit accident and health insurance pursuant to chapter 690A of NRS.*~~

1 Sec. 6. “Retained asset account” means any account or other mechanism
2 by which the settlement of any proceeds payable under a policy of life insurance
3 is accomplished by the insurer or a person acting on behalf of the insurer by
4 depositing the proceeds into an account with draft or check writing privileges,
5 where the proceeds are retained by the insurer, pursuant to a supplementary
6 contract not involving annuity benefits.

7 Sec. 6.5. The provisions of this chapter do not apply to any policy of life
8 insurance, annuity or benefit contract that is used to fund or otherwise provide a
9 death benefit under an employee benefit program which is subject to the
10 Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.

11 Sec. 7. On or before the effective date of a policy of life insurance, ~~for~~
12 annuity or benefit contract or on or before the date of the establishment of a
13 retained asset account, and upon any change in an insured, an owner or a
14 beneficiary, an insurer shall request information sufficient to ensure that all
15 benefits are distributed to the appropriate beneficiary upon the death of the
16 insured. ~~It, including, without limitation, the name, address, social security~~
17 ~~number, date of birth and telephone number of the insured and each beneficiary,~~
18 ~~as applicable.~~

19 Sec. 8. 1. ~~Each~~ Except as otherwise provided by order of the
20 Commissioner pursuant to section 9.5 of this act, each insurer shall, at least
21 semiannually, for the purpose of paying death benefits to a beneficiary, perform a
22 comparison against the Death Master File of the policies of life insurance,
23 annuities, benefit contracts and retained asset accounts of its insureds ~~for~~ whose
24 contracts are in force at the time the insurer performs the comparison.

25 2. ~~If an insurer only has the partial name, social security number or date~~
26 ~~of birth, or a combination thereof, of an insured, the insurer shall use the~~
27 ~~available information to perform the comparison pursuant to subsection 1.~~

28 ~~3.~~ Each insurer shall implement reasonable procedures to account for
29 common variations in data that may otherwise preclude an exact match with the
30 Death Master File.

31 ~~4.~~ 3. Within 90 days after identifying a potential match resulting from a
32 comparison of the Death Master File performed pursuant to subsection 1, the
33 insurer shall:

34 (a) Make a reasonable effort to confirm the death of the insured against any
35 other available records and information; ~~and~~

36 (b) Determine whether the deceased insured had purchased any other
37 products of the insurer; and

38 (c) Determine whether death benefits are due in accordance with the
39 applicable policy of life insurance, ~~for~~ annuity ~~or~~

40 ~~or benefit contract and, if death benefits are due:~~

41 (1) Make a reasonable effort to locate each beneficiary; and

42 (2) Provide to each beneficiary who is located the appropriate claim
43 forms and instructions for making a claim under the policy of life insurance,
44 annuity or benefit contract.

45 4. If the insurer determines that death benefits are due in accordance with
46 the applicable policy, ~~for~~ annuity ~~or~~ benefit contract, the insurer shall ~~for~~

47 ~~Make a reasonable effort to locate each beneficiary;~~

48 ~~Keep~~ keep a complete record of all efforts made to locate each
49 beneficiary. ~~It and~~

50 ~~Provide to each beneficiary the appropriate claim forms and instructions~~
51 ~~for making a claim under the policy of life insurance or annuity.~~

52 ~~6.~~ 5. The insurer shall process all claims and make prompt payments in
53 accordance with NRS 686A.310, 688A.140, 688A.410 and 688B.100 and chapter

695A of NRS, as applicable, and any regulations adopted or order issued by the Commissioner.

~~6. If an insurer is unable to locate a beneficiary pursuant to this section, but is otherwise able to reasonably determine the death of an insured and determine that a death benefit is due in accordance with the applicable policy of life insurance, for annuity or benefit contract, the death benefit, to the extent it is properly pursuant to NRS 120A.113, other than a death benefit payable pursuant subsection 3 of NRS 695A.210, shall be deemed abandoned pursuant to NRS 120A.500.~~

~~7. To the extent permitted by law, the insurer may disclose minimum necessary personal information about the insured or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer in locating the beneficiary or a person otherwise entitled to payment of the claims proceeds.~~

~~8. With respect to a policy of group life insurance delivered or issued for delivery pursuant to chapter 688B of NRS, an insurer is required to confirm the possible death of an insured pursuant to this chapter if the insurer maintains at least the following information for the insured under such a policy:~~

- ~~(a) Social security number or name and date of birth;~~
- ~~(b) Beneficiary designation information;~~
- ~~(c) Coverage eligibility;~~
- ~~(d) Benefit amount; and~~
- ~~(e) Premium payment status.~~

~~Sec. 9. An insurer shall not charge or collect from an insured or a beneficiary any fees or costs associated with any search or verification conducted pursuant to this chapter.~~

~~Sec. 9.3. 1. An insurer shall notify the State Treasurer upon the reversion by escheat of a benefit under a policy of life insurance or an annuity. The notice must state that:~~

~~(a) The beneficiary under the policy or annuity has failed to submit a claim with the insurer; and~~

~~(b) The insurer has complied with section 8 of this act and, after a good faith effort which has been documented pursuant to section 8 of this act, has been unable to contact any beneficiary of the policy or annuity.~~

~~2. As soon as practicable after providing notice pursuant to subsection 1, an insurer shall transfer to the State Treasurer the amount of the unclaimed benefit owed under the policy of life insurance or annuity, including any accrued interest thereon.~~

~~3. The provisions of this section do not apply to a death benefit which vests under a benefit contract and which is payable pursuant to subsection 3 of NRS 695A.210.~~

~~Sec. 9.5. The Commissioner may, after notice and a hearing, issue an order:~~

~~1. Authorizing an insurer to limit its comparison against the Death Master File pursuant to section 8 of this act to its files that are searchable electronically.~~

~~2. Approving a timeline by which an insurer must convert its files into a form that is searchable electronically.~~

~~3. Exempting an insurer from any requirement of section 8 of this act, including authorizing an insurer to perform a comparison against the Death Master File less frequently than semiannually, upon a demonstration of financial hardship by the insurer.~~

~~4. Approving the plan of an insurer to comply with the requirements of this chapter during the period and in the manner set forth in the plan.~~

1 Sec. 9.7. Except as otherwise provided in section 9.5 of this act, the failure
2 of an insurer to comply with any provision of this chapter may constitute an
3 unfair trade practice for the purposes of chapter 686A of NRS.

4 Sec. 10. The Commissioner may adopt regulations to carry out the
5 provisions of this chapter. ~~It, including, without limitation, regulations to assist a~~
6 ~~person in locating unclaimed life insurance benefits.]~~

7 Sec. 11. ~~[The amendatory provisions of this act do not apply to an agreement~~
8 ~~by the Commissioner with an insurer, entered into before January 1, 2014,~~
9 ~~regarding unclaimed life insurance benefits originating under:~~

- 10 ~~1. A policy of life insurance;~~
11 ~~2. An annuity;~~
12 ~~3. A retained asset account;~~
13 ~~4. A certificate issued under a policy of life insurance or an annuity; or~~
14 ~~5. A certificate issued to a fraternal benefit society pursuant to chapter 695A~~
15 ~~of NRS under which benefits are payable upon the death of an insured.] (Deleted~~
16 by amendment.)

17 Sec. 12. This act becomes effective on ~~January~~ July 1, 2014.