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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:

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

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

(3) "match" means a search of a death master file that results in a match of the social security number or

1 the name and date of birth of an insured, annuity owner or
2 retained asset account holder; and

3 (4) "policy" means a policy or certificate
4 of life insurance that provides a death benefit, but excludes
5 policies or certificates of credit life or accidental death
6 insurance, policies or certificates of life insurance used to
7 fund a preneed funeral contract or funeral prearrangement and
8 policies or certificates of life insurance that provide a
9 death benefit pursuant to an employee benefit plan that are:

10 (a) subject to the federal Employee
11 Retirement Income Security Act of 1974, as amended; or

12 (b) under a federal employee benefit
13 program.

14 B. At least twice a year, an insurer shall
15 crosscheck its insureds' in-force life insurance policies and
16 retained-asset accounts against a death master file to
17 identify potential matches. For each potential match, within
18 ninety days, the insurer shall:

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

22 (2) determine whether the applicable policy
23 or contract provides for the payment of a death benefit. If
24 the payment of a death benefit is required, the insurer
25 shall:

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

3 (b) provide to the beneficiary or
4 beneficiaries the appropriate claim forms or instructions for
5 making a claim, including the need to provide an official
6 death certificate if required by the policy or contract; and

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

11 (a) social security number, or name and
12 date of birth;

13 (b) beneficiary designation
14 information;

15 (c) coverage eligibility;

16 (d) benefit amount; and

17 (e) premium payment status.

18 C. To the extent permitted by law, an insurer may
19 disclose the minimum information about the insured or the
20 beneficiary that is necessary to locate a beneficiary or
21 another person entitled to receive a payment of the claims
22 proceeds to a person whom the insurer reasonably believes
23 could assist the insurer in locating the beneficiary or
24 another person entitled to receive a payment of the claims
25 proceeds. An insurer or its service provider shall not

1 charge an insured, an account holder or a beneficiary for a
2 search or confirmation conducted pursuant to this subsection.

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

23 E. To assist the superintendent in identifying
24 lost policies, by July 1, 2016, an insurer that has never
25 conducted a crosscheck of its insureds' policies and

1 contracts issued prior to July 1, 2013 against a death master
2 file for the purpose of identifying deceased insureds shall
3 provide to the superintendent a list of all policies and
4 contracts in force and issued in New Mexico.

5 F. For an insurer that has never conducted a
6 crosscheck of its insureds' policies and contracts against a
7 death master file for the purpose of identifying deceased
8 insureds, the provisions of this section shall apply only to
9 policies and contracts issued and delivered in New Mexico on
10 or after July 1, 2013."

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

13 "CERTIFICATES OF PROPERTY OR CASUALTY INSURANCE.--

14 A. As used in this section:

15 (1) "certificate of insurance" means any
16 document or instrument prepared or issued by an insurer or
17 insurance producer as evidence of property or casualty
18 insurance coverage, but excludes an insurance policy,
19 insurance binder, policy endorsement or automobile insurance
20 identification or information card; and

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

24 B. A person shall not prepare, issue or require
25 the issuance of a certificate of insurance on property,

1 operations or risks located in New Mexico unless an insurer
2 or an agent of an insurer has filed the certificate of
3 insurance form with the superintendent at least sixty days
4 before its proposed effective date. The superintendent shall
5 review any filing made pursuant to this subsection within
6 sixty days of the filing date. The superintendent shall
7 prohibit the use of a certificate of insurance form if the
8 form:

- 9 (1) is unfair, misleading or deceptive;
 - 10 (2) violates public policy; or
 - 11 (3) violates any law, including any rule
- 12 promulgated by the superintendent.

13 C. If the superintendent prohibits a certificate
14 of insurance form during the sixty-day review period, the
15 superintendent shall give the insurer written notice of the
16 disapproval, stating the grounds for disapproval. After the
17 expiration of the sixty-day review period, a filing shall be
18 deemed to meet the requirements of this section to become
19 effective unless prohibited pursuant to this section.

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

- 22 (1) the current edition of a standard
23 certificate of insurance form that is promulgated by the
24 association for cooperative operations research and
25 development, the American association of insurance services

1 or the insurance services office and that is filed with and
2 approved by the superintendent pursuant to Subsection E of
3 this section; or

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

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

17 F. A filing submitted pursuant to this section
18 shall be filed electronically. The superintendent may
19 designate an entity to receive the electronic filings
20 submitted pursuant to this section.

21 G. A certificate of insurance is not an insurance
22 policy and does not affirmatively or negatively amend, extend
23 or alter the coverage afforded by the policy to which the
24 certificate of insurance refers. A certificate of insurance
25 shall not confer to any person new or additional rights

1 beyond the express provisions of the insurance policy to
2 which it refers.

3 H. A person shall not:

4 (1) alter or modify a certificate of
5 insurance form filed with the superintendent; or

6 (2) prepare, issue or require the issuance
7 of a certificate of insurance that:

8 (a) contains any false or misleading
9 information concerning the insurance policy to which the
10 certificate of insurance refers; or

11 (b) purports to affirmatively or
12 negatively alter, amend or extend the coverage provided by
13 the insurance policy to which the certificate of insurance
14 refers.

15 I. A contract number or description in a
16 certificate of insurance shall not indicate that the
17 insurance policy complies with the insurance or
18 indemnification requirements of a contract. A person shall
19 not certify in a certificate of insurance that the insurance
20 policy to which it refers complies with the insurance or
21 indemnification requirements of a contract.

22 J. An insurer or insurance producer shall notify a
23 person of the cancellation or nonrenewal of or material
24 change to an insurance policy only if that person has the
25 right to notice pursuant to the terms of the insurance policy

1 or an endorsement to an insurance policy. The insurance
2 policy or endorsement to an insurance policy shall govern the
3 terms and conditions of the notice. A certificate of
4 insurance shall not alter the terms and conditions of the
5 notice.

6 K. The provisions of this section apply to all
7 certificates of insurance issued in connection with property,
8 operations or risks in New Mexico, regardless of the location
9 of the policyholder, insurer, insurance producer or person
10 requiring the issuance of a certificate of insurance.

11 L. A certificate of insurance or any other
12 document or correspondence prepared, issued or required in
13 violation of this section shall be void."

14 SECTION 3. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2013. _____

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