

CHAPTER 119

S.B. No. 907

An Act relating to unclaimed funds of certain life insurance companies; amending Article 4.08, Insurance Code, by amending Sections 3, 4, 5, 6, and 9 and Subsection (d) of Section 8 and by adding Sections 15 and 16.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Sections 3, 4, 5, and 6, Article 4.08, Insurance Code, are amended to read as follows:

"Section 3. **DEFINITIONS.** The term 'unclaimed funds' as used in this Article shall mean and include all monies held and owing by any life insurance company doing business in this state

which shall have remained unclaimed and unpaid for ~~three~~ [seven] years or more after it is established from the records of such company that such monies became due and payable under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the prior death of the insured shall be deemed to be matured and the proceeds thereof shall be deemed to be 'due and payable' within the meaning of this Article only if such policy is in force when the insured shall have attained the limiting age under the mortality table on which the reserve is based. Annuities and other obligations, the payment of which is conditioned upon the continued life of any person, shall not be deemed to be 'due and payable' in the absence of actual proof that such person was alive at the time or times required by the contract. Monies otherwise admittedly due and payable under any such life or endowment insurance policy or annuity contract shall be deemed to be 'held and owing' within the meaning of this Article although the policy or contract shall not have been surrendered as required.

"Section 4. REPORTS. Every such life insurance company shall on or before the first day of May of each year make a report in writing to the State Treasurer of Texas of all unclaimed funds, as hereinbefore defined, held and owing by it on the 31st day of December next preceding, provided, however, such report shall not be required to include ~~amounts of less than Five Dollars (\$5.00) which on the effective date of this Article shall have been unclaimed and unpaid for more than eleven years; or~~ amounts which have been paid to another state or jurisdiction under any escheat or unclaimed funds law thereof. Such report shall be signed and sworn to by an officer of such company and shall set forth: (1) in alphabetical order the full name of the insured or annuitant, ~~the~~ [his] last known address according to the company's records, and the policy or contract number; (2) the amount appearing from the company's records to be due on such policy or contract; (3) the date such unclaimed funds became payable; (4) the name and last known address of each beneficiary or other person who, according to the company's records, may have an interest in such unclaimed funds; and (5) such other identifying information as the State Treasurer may require; provided, however, that individual amounts of less than ~~Twenty-five Dollars (\$25.00) shall~~ [Ten Dollars (\$10.00) each may] be reported in the aggregate without furnishing any of the information required in Clauses (1), (2), (3), (4), and (5) of this Section. ~~Each life insurance company required to file a report under this Section shall maintain a record of the name and last known address, if any, of the insured, annuitant, or beneficiary, the policy or contract number, and the amount appearing from the company's records to be due on the policy or contract for 10 years after the funds are reportable, whether or not the amount was reported in the aggregate under this Section. The State Treasurer may provide by rule for a shorter holding period for these records.~~

"Section 5. NOTICE; PUBLICATION. (a) ~~Not earlier than March 1 and not later than March 31 of each year~~ [On or before the first day of September] following the making of such reports under Section 4, the State Treasurer shall cause to be published notices based on the information contained in such reports ~~[and entitled: 'NOTICE OF CERTAIN UNCLAIMED FUNDS HELD AND OWING BY LIFE INSURANCE COMPANIES.']~~ Such a notice shall be published once in a newspaper published or having a general circulation in each county of this state in which is located the last known address of a person appearing to be entitled to such funds.

"(b) Each such notice shall set forth in alphabetical order the names of the insureds or annuitants under policies or contracts ~~and the city of last known address, if any~~ [where the last known address of the person appearing to be entitled to such funds is in the county of publication or general circulation], together with ~~;~~ (1) the amount reported due and the date it became payable; ~~(2) the name and last known address of each beneficiary or~~ [of] other person who, according to the company's reports, may have an interest in such unclaimed funds ~~;~~ and ~~(3) the name and address of the company~~. The notice shall also state that such unclaimed funds have been delivered to the State Treasurer on the preceding November 1 and that those funds may be claimed from the State Treasurer ~~[will be paid by the company to persons establishing to its satisfaction before the following December 1st their right to receive the same; and that not later than the following December 20th such unclaimed funds still remaining will be paid to the State Treasurer who shall thereafter be liable for the payment thereof].~~

"(c) It shall not be obligatory upon the State Treasurer to publish any item of less than Fifty Dollars (\$50) in such notice, unless the State Treasurer deems such publication to be in the public interest. ~~Expenses incurred for the~~ [The expenses of] publication of notice may ~~shall~~ be charged against the funds delivered to the State Treasurer under Section 6 of this Article ~~[the special trust fund provided for in Section 6].~~

"Section 6. PAYMENT TO STATE TREASURER. All unclaimed funds contained in the report required to be filed by Section 4 of this Article, excepting those which have ceased to be unclaimed funds, shall be paid over to the State Treasurer on or before the following November

1. Unclaimed funds shall be paid over to the State Treasurer before the publication of notice required by Section 5 of this Article [December 20th].

"The State Treasurer shall have the power, for cause shown, to extend for a period of not more than one year the time within which a life insurance company shall file any report and in such event the time for publication and payment required by this Article shall be extended for a like period."

SECTION 2. Section 9, Article 4.08, Insurance Code, is amended to read as follows:

"Section 9. [SPECIAL TRUST] FUND [s] ADMINISTRATION. Upon receipt of any unclaimed funds from such life insurance companies by the State Treasurer, the State Treasurer shall deposit those funds in the unclaimed money fund established by Section 74.601, Property Code. Money in the unclaimed money fund may be appropriated by the legislature to enforce and administer this Article [he shall pay forthwith three-fourths of the amount thereof into the general funds of the state for the use of the state. The remaining one-fourth shall be administered by him as a special trust fund for the purposes of this Article, and deposited in the manner provided by law for the deposit of said funds. At the end of each calendar year, any unclaimed funds which shall have been a part of such special trust fund for a period of seven years or more shall be paid into the general funds of the state for the use of the state, provided that the special trust fund shall never be so reduced to less than One Hundred Thousand Dollars (\$100,000.00)]."

SECTION 3. Subsection (d), Section 8, Article 4.08, Insurance Code, is amended to read as follows:

"(d) The rights to reimbursement set forth in, and provided by, this Section shall be the obligation of the State of Texas and any amounts recoverable under this Section 8, whether or not due under any judgment against the State Treasurer, shall be paid from the unclaimed money fund [special trust fund established by this Act, or if the special trust fund is insufficient from the general funds of the State of Texas]."

SECTION 4. Article 4.08, Insurance Code, is amended by adding Sections 15 and 16 to read as follows:

"Section 15. RULES. The State Treasurer may adopt rules necessary to carry out this Article.

"Section 16. EXAMINATION OF RECORDS. The State Treasurer may examine the records of a life insurance company to determine if the life insurance company is complying with this Article. The State Treasurer may not make public any information obtained by an examination made under this Section."

SECTION 5. The requirement in Section 6, Article 4.08, Insurance Code, as amended by this Act, that unclaimed funds be paid to the State Treasurer on or before November 1, applies only to unclaimed funds to be paid to the State Treasurer in 1986 and subsequent years. Unclaimed funds to be paid to the State Treasurer in 1985 shall be paid as provided by Section 6, Article 4.08, Insurance Code, as it existed before the effective date of this Act and that law is continued in effect for that purpose.

SECTION 6. (a) This Act takes effect September 1, 1985.

(b) Sections 2 and 3 of this Act take effect only if S.B. No. 906, Acts of the 69th Legislature, Regular Session, 1985, is given effect.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 28, 1985, by a viva-voce vote; passed the House on May 2, 1985, by a non-record vote.

Approved: May 17, 1985

Effective: September 1, 1985