

By: Burnam

H.B. No. 3619

A BILL TO BE ENTITLED

AN ACT

relating to disclosure of information regarding and conditions for payment of death benefits under certain policies, contracts, and group benefit plans; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 1101, Insurance Code, is amended by adding Subchapters E and F to read as follows:

SUBCHAPTER E. DISCLOSURES REGARDING DEATH BENEFITS

Sec. 1101.201. DEFINITION. Notwithstanding Section 30.003, in this subchapter, "person" has the meaning assigned by Section 311.005, Government Code.

Sec. 1101.202. APPLICABILITY OF SUBCHAPTER. This subchapter applies to any person who is an issuer, sponsor, trustee, or third-party administrator of any insurance policy, annuity or other contract, or group benefit plan that provides a death benefit payable to a beneficiary, including:

(1) an insurance company operating under Chapter 841;

(2) a statewide mutual assessment company operating under Chapter 881;

(3) a mutual life insurance company operating under Chapter 882;

(4) a stipulated premium insurance company operating under Chapter 884;

(5) a fraternal benefit society operating under

1 Chapter 885;

2 (6) a local mutual aid association operating under

3 Chapter 886;

4 (7) a burial association operating under Chapter 888;

5 (8) an employer or other group benefit plan sponsor,
6 regardless of whether the death benefit is provided through an
7 insurance policy or is self-insured;

8 (9) the board of trustees for the Employees Retirement
9 System of Texas;

10 (10) the Teacher Retirement System of Texas;

11 (11) a voluntary association that holds a group life
12 insurance policy under Chapter 1578;

13 (12) The University of Texas System;

14 (13) The Texas A&M University System;

15 (14) a political subdivision that is providing group
16 benefits, or is a member of a group of political subdivisions
17 providing group benefits, under Chapter 172, Local Government Code;

18 (15) a person acting as third-party administrator
19 under Chapter 4151 for group benefits that include a death benefit;
20 and

21 (16) a trustee of a trust-funded prepaid funeral
22 benefits contract regulated under Subchapter F, Chapter 154,
23 Finance Code.

24 Sec. 1101.203. REQUEST FOR DISCLOSURES REGARDING DEATH
25 BENEFITS. (a) A person who issues, sponsors, is a trustee of, or
26 administers an insurance policy, annuity or other contract, or
27 group benefit plan that provides a death benefit shall make the

1 disclosures required by Section 1101.204 to a person who makes a
2 written request for the information by fax or e-mail, accompanied
3 by a power of attorney granting the requestor the authority to
4 request the information on behalf of a person claiming to be a
5 beneficiary of death benefits under the policy, contract, or plan.
6 The power of attorney may be included in or accompanied by an
7 assignment to the requestor of death benefits by the person
8 claiming to be a beneficiary.

9 (b) A person to whom this subchapter applies:

10 (1) may require that a request under this section be
11 accompanied by proof of death; and

12 (2) shall accept as the required proof of death for the
13 purpose of making a disclosure under Section 1101.204 any of the
14 following items:

15 (A) a certified death certificate;

16 (B) an obituary;

17 (C) a burial permit; or

18 (D) any other documentation of the death
19 originating from a person other than the person making the request
20 or claiming to be a beneficiary.

21 Sec. 1101.204. REQUIRED DISCLOSURES. (a) A person to whom
22 this subchapter applies shall disclose the following information to
23 a person who submits a request that complies with Section 1101.203:

24 (1) whether the person who granted the power of
25 attorney is a beneficiary under the insurance policy, contract, or
26 group benefit plan referenced in the request; and

27 (2) if the person who granted the power of attorney is

1 a beneficiary:

2 (A) the relationship of that beneficiary to the
3 person on whose death the payment of benefits is contingent;

4 (B) the birth date of the person on whose death
5 the payment of benefits is contingent or that person's age on the
6 date the policy, contract, or group benefit plan coverage providing
7 the death benefit was issued, entered into, or otherwise initiated;

8 (C) whether sufficient death benefits are
9 available to that beneficiary to pay:

10 (i) the funeral costs of the deceased
11 proposed to be advanced to that beneficiary by the requestor, as
12 specified in an assignment of benefits accompanying the request;
13 and

14 (ii) any other amount proposed to be
15 advanced to that beneficiary by the requestor, as specified in an
16 assignment of benefits accompanying the request;

17 (D) the total amount of death benefits available
18 to that beneficiary, if the beneficiary has specifically authorized
19 a disclosure of that amount in the power of attorney accompanying
20 the request;

21 (E) whether those death benefits are contestable
22 and, if so, on what basis the benefits are contestable; and

23 (F) any reason that the death benefits would not
24 be paid to a person to whom the benefits were assigned in accordance
25 with any assignment of benefits accompanying the request.

26 (b) A disclosure required to be made under this section must
27 be made to the requestor and, if specified by the request, to the

1 person claiming to be a beneficiary. The disclosure must be made by
2 fax, e-mail, or telephone within 48 hours of receipt of the request,
3 excluding any day that is a Saturday, Sunday, or Texas state or
4 federal holiday.

5 Sec. 1101.205. PENALTY; DISCIPLINARY ACTION. (a) A person
6 who does not make a disclosure required by this subchapter in the
7 time prescribed by Section 1101.204(b) is liable to the person who
8 granted the power of attorney to the person who submitted the
9 request for a penalty, recoverable in a civil action, in an amount
10 not to exceed \$500 for each violation. Each day the violation
11 continues is a separate violation.

12 (b) The commissioner may suspend or revoke the certificate
13 of authority of a person who wilfully violates this subchapter.

14 SUBCHAPTER F. PAYMENT OF DEATH BENEFIT

15 Sec. 1101.251. ADEQUACY OF DEATH CERTIFICATE. The issuer,
16 sponsor, trustee, or third-party administrator of an insurance
17 policy, annuity or other contract, or group benefit plan to whom
18 Subchapter E applies maynot require, as a condition of payment of a
19 death benefit, that the death certificate for the person on whose
20 death payment of the benefit is contingent specify a cause or manner
21 of death.

22 Sec. 1101.252. TIME FOR PAYMENT OF DEATH BENEFIT TO
23 ASSIGNEE. Notwithstanding Section 1101.011 and subject to Section
24 1103.102(c)(2), if applicable, and Sections 154.207 and 154.262,
25 Finance Code, if applicable, the issuer, sponsor, trustee, or
26 third-party administrator of an insurance policy, annuity or other
27 contract, or group benefit plan to whom Subchapter E applies must

1 pay a death benefit provided under the policy, contract, or plan to
2 a person to whom the benefit is assigned at the assignee's address
3 not later than two weeks after the receipt of:

4 (1) a properly executed assignment of the death
5 benefit by the person otherwise entitled to the benefit to the
6 assignee requesting payment;

7 (2) a death certificate for the person on whose death
8 the payment of benefits is contingent; and

9 (3) a properly completed claim form.

10 SECTION 2. This Act takes effect September 1, 2013.