

By: West

S.B. No. 1252

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 exemplary damages.

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 named beneficiary who
2 makes a written request for the information by fax or e-mail.

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

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

6 (2) shall accept as the required proof of death for the
7 purpose of making a disclosure under Section 1101.204 any of the
8 following items:

9 (A) a certified death certificate;

10 (B) an obituary;

11 (C) a burial permit; or

12 (D) any other documentation of the death
13 originating from a person other than the named beneficiary making
14 the request.

15 Sec. 1101.204. REQUIRED DISCLOSURES. (a) A person to whom
16 this subchapter applies shall disclose the following information to
17 a named beneficiary who submits a request that complies with
18 Section 1101.203:

19 (1) the relationship of that beneficiary to the person
20 on whose death the payment of benefits is contingent;

21 (2) the birth date of the person on whose death the
22 payment of benefits is contingent or that person's age on the date
23 the policy, contract, or group benefit plan coverage providing the
24 death benefit was issued, entered into, or otherwise initiated;

25 (3) whether sufficient death benefits are available to
26 that beneficiary to pay:

27 (A) the funeral costs of the deceased proposed to

1 be advanced to that beneficiary, as specified in the request; and

2 (B) any other amount proposed to be advanced to
3 that beneficiary, as specified in the request;

4 (4) the total amount of death benefits available to
5 that beneficiary;

6 (5) whether those death benefits are contestable and,
7 if so, on what basis the benefits are contestable; and

8 (6) any reason that the death benefits would not be
9 paid to a person to whom the benefits were assigned in accordance
10 with any assignment of benefits accompanying the request.

11 (b) A disclosure required to be made under this section must
12 be made to the requestor by fax, e-mail, or telephone within 48
13 hours of receipt of the request, excluding any day that is a
14 Saturday, Sunday, or Texas state or federal holiday.

15 Sec. 1101.205. EXEMPLARY DAMAGES; DISCIPLINARY ACTION. (a)
16 A person who does not make a disclosure required by this subchapter
17 in the time prescribed by Section 1101.204(b) is liable to the named
18 beneficiary who submitted the request for exemplary damages,
19 recoverable in a civil action, in an amount not to exceed \$500 for
20 each violation. Each day the violation continues is a separate
21 violation.

22 (b) Notwithstanding Section 41.004(a), Civil Practice and
23 Remedies Code, a court shall award exemplary damages under
24 Subsection (a) irrespective of whether the named beneficiary is
25 awarded actual damages.

26 (c) The commissioner may suspend or revoke the certificate
27 of authority of a person who wilfully violates this subchapter.

1 SUBCHAPTER F. PAYMENT OF DEATH BENEFIT

2 Sec. 1101.251. ADEQUACY OF DEATH CERTIFICATE. The issuer,
3 sponsor, trustee, or third-party administrator of an insurance
4 policy, annuity or other contract, or group benefit plan to whom
5 Subchapter E applies may not require, as a condition of payment of a
6 death benefit, that the death certificate for the person on whose
7 death payment of the benefit is contingent specify a cause or manner
8 of death.

9 Sec. 1101.252. TIME FOR PAYMENT OF DEATH BENEFIT TO
10 ASSIGNEE. Notwithstanding Section 1101.011 and subject to Section
11 1103.102(c)(2), if applicable, and Sections 154.207 and 154.262,
12 Finance Code, if applicable, the issuer, sponsor, trustee, or
13 third-party administrator of an insurance policy, annuity or other
14 contract, or group benefit plan to whom Subchapter E applies must
15 pay a death benefit provided under the policy, contract, or plan to
16 a person to whom the benefit is assigned at the assignee's address
17 not later than the fifth business day after the receipt of:

18 (1) a properly executed assignment of the death
19 benefit by the person otherwise entitled to the benefit to the
20 assignee requesting payment;

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

23 (3) a properly completed claim form.

24 SECTION 2. This Act takes effect September 1, 2017.