

1975 WL 29786 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 6, 1975

***1 Re: Uniform Disposition of Unclaimed Property Act (Title 57, Chapter 5.1 1962 Code, as Amended)**

Honorable Howard B. Clark
Chief Insurance Commissioner
S. C. Department of Insurance
P. O. Box 4067
Columbia, South Carolina 29240

Dear Commissioner Clark:

Your letter of May 2, 1975, to Deputy Attorney General Evans, has been referred to me for reply. You have requested an opinion as to the application of the Disposition of Unclaimed Property Act (South Carolina Code Section 57-240.1, et seq.) to the surplus funds created by nonforfeiture values of life insurance policies that are in excess of the amount needed to provide the term insurance for extended benefits stipulated by the policy in the event of lapse.

It is my understanding that life insurers are required by law to ascribe certain nonforfeiture values to life policies. These values must be accorded notwithstanding that the policy lapses or otherwise goes out of force. It is my further understanding that under the policy, these funds, upon lapse, are utilized to purchase term insurance or extended benefits and that in certain instances the nonforfeiture funds available will be in excess of that needed to purchase the extended benefits or term insurance stipulated by the policy. The question thus becomes whether the Unclaimed Property Act is applicable to these surplus funds, if the named insured cannot be located.

You have correctly pointed out that Code Section 57-240.3, subsection 2, in its definition of 'unclaimed funds' would include the surplus funds mentioned.

It is the opinion of this Office that Code Section 57-240.11 requires the insurance company holding such funds to report them to the South Carolina Tax Commission. It is further the opinion of this Office that under Code Section 57-240.13, the insurance companies holding such funds for seven years or longer must pay over or deliver such funds to the South Carolina Tax Commission. The Disposition of Unclaimed Property Act specifically sets forth the procedures to be followed and would not allow the retention of these funds by the insurance company after the statutory seven-year period has elapsed. The surplus funds created by the nonforfeiture values assigned certain life policies belong to the policyholder or his heirs, or to the State of South Carolina under the Disposition of Unclaimed Property Act.

Sincerely,

A. Camden Lewis
Assistant Attorney General

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