

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
LIFE INSURANCE & FINANCIAL PLANNING COMMITTEE
SANTA FE, NEW MEXICO
NOVEMBER 17, 2011
MINUTES

The National Conference of Insurance Legislators (NCOIL) Life Insurance & Financial Planning Committee met at the Eldorado Hotel & Spa in Santa Fe, New Mexico, on Thursday, November 17, at 5:00 p.m.

Sen. Mike Hall of West Virginia, chair of the Committee, presided.

Other members of the Committee present were:

Rep. Greg Wren, AL	Rep. Don Flanders, NH
Sen. Jason Rapert, AR	Sen. Carroll Leavell, NM
Sen. Vi Simpson, IN	Assem. Nancy Calhoun, NY
Sen. Ruth Teichman, KS	Assem. Joseph Morelle, NY
Rep. Ron Crimm, KY	Sen. James Seward, NY
Rep. Robert Damron, KY	Rep. Charles Curtiss, TN
Rep. Pete Lund, MI	Del. Harvey Morgan, VA
Rep. George Keiser, ND	Rep. William Botzow, VT

Other legislators present were:

Rep. Barry Hyde, AR
Rep. Matt Lehman, IN
Sen. John Horhn, MS
Sen. Ralph Hise, NC

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, Nolan Associates, NCOIL Deputy Executive Director
Michael Humphreys, Nolan Associates, NCOIL Director of State-Federal Relations
Jordan Estey, Nolan Associates, NCOIL Director of Legislative Affairs & Education

MODEL UNCLAIMED LIFE INSURANCE BENEFITS ACT

Sen. Hall said that the Committee was holding its second meeting of the day to consider a proposed *Model Unclaimed Life Insurance Benefits Act*. He reported that, following the Committee's morning session, model sponsor Rep. Damron had met with interested parties and would offer a sponsor's amendment to the proposed model in line with those talks.

Sen. Hall said that because the amendment was submitted after the 30-day Annual Meeting deadline for document consideration, NCOIL bylaws required a two-thirds majority vote to suspend the rule and discuss the proposal. Upon a motion made and seconded, the Committee suspended the deadline rule via unanimous voice vote.

Rep. Damron said that his meetings with American Council of Life Insurers (ACLI) representatives throughout the day had been productive. He said that his sponsor's amendment would accommodate many of their concerns and that the model, as amended, would continue to set strong consumer protections and reasonable rules for insurer compliance.

John Gerni on behalf of the ACLI commented that both sides had compromised during the talks and that the amendment would significantly improve the model. He said that he supported the amendment in concept but couldn't officially support it without ACLI membership approval.

SPONSOR'S AMENDMENT

Rep. Damron said that his sponsor's amendment would:

- in Section 3(C), exempt life insurance plans subject to the Employee Retirement Income Security Act (ERISA) of 1974 from the definition of "policy"
- in a new Section 3(D), include a "contract" definition
- in Section 4(A), amend language to require that all life insurers—regardless of size or current usage of a U.S. Social Security Death Master File (DMF)—compare in-force life insurance policies and retained asset accounts against a DMF each quarter
- in Section 4(A)(1), amend language to allow 90 days for insurers to confirm a death, locate beneficiaries, and provide claims payment instructions
- in a new Section 4(A)(2), require insurer confirmation of possible deaths within group life insurance policies only when the insurer provides record-keeping services
- in a new Section 4(A)(3), add language to allow for insurer disclosure of minimum personal information to assist in compliance
- delete original Section 4(B), which would have prevented an insurer from requiring additional proof of loss when it has knowledge of an insured's death
- strike redundant language in original Section 4(C) regarding insurers' ability to charge consumers for associated compliance costs
- delete original Section 4(D) regarding company subsidiaries, since the language would be unnecessary with the new requirement that all insurers conduct quarterly DMF searches
- in new Section 4(D), require insurers to notify only the state unclaimed property department—and not also the insurance department—when unclaimed life insurance benefits are transferred to the state

COMMITTEE DISCUSSION

In response to a question from Rep. Keiser regarding what "good faith efforts" to locate beneficiaries in Section 4(A)(1) entailed, Mary Jo Hudson of Bailey Cavaleri, speaking on behalf of the ACLI, said the language was open to insurance regulator and company interpretation. She thought the language would appropriately allow regulators and companies to use new technologies, methods, and available records over time to comply.

Assem. Calhoun asked why the proposed insurer research/notification requirements in Section 4(B) would be necessary when DMF searches identify deceased policyholders. In response, Rep. Damron said that the DMF is the best available tool but that it isn't always accurate. He said, for example, that a search could identify a deceased individual with the same name as a living policyholder. He said the Section 4(B) provisions would allow insurers to research the match, determine if benefits are due, and then follow up with beneficiaries, if necessary.

Sen. Simpson asked if the model would sync with needed changes to state unclaimed property laws. Ms. Hudson replied that the model would focus on insurance regulation but would provide a nice foundation for future unclaimed property law updates.

Rep. Botzow said references to "good faith efforts" and "reasonable good faith efforts" in Sections 4(B)(1)(a) and 4(B)(1)(b)(i) should be consistent for drafting purposes. Rep. Curtiss added that the term "reasonable" can be widely interpreted and suggested that it be deleted from both locations. Rep. Damron concurred with Rep. Curtiss' suggestion and agreed to add the change as part of the sponsor's amendment.

Rep. Damron requested a roll call vote to waive the 30-day rule. Sen. Hall noted that the Committee had already waived the rule, but would accommodate Rep. Damron's request for the record. After Rep. Damron's motion received a second, Committee members present voted 13 to 0 to waive the rule and consider the amendment. Sen. Leavell, Rep. Lund, and Sen. Rapert did not participate in the vote.

Upon a motion made and seconded, the Committee then unanimously approved the sponsor's amendment by voice vote.

Assem. Morelle said that unclaimed benefits are an important consumer issue and thanked Rep. Damron for his efforts. Assem. Morelle said that he'd like to hear from interested parties on the amended draft, however, before the Committee took final action. He then made a motion, seconded by Sen. Seward, to defer final consideration of the amended model until the 2012 NCOIL Spring Meeting.

Rep. Damron opposed the motion and said that the proposed model had evolved over several months of work and that the sponsor's amendment accommodated interested-party concerns. He said that, as per his discussions with the ACLI, the Committee would revisit any glaring problems with the model at a future meeting, if necessary. He said that many legislatures would be out of session or wrapping up legislative work by the end of February when the Committee would meet again. He said that delaying action would be a failure by NCOIL to act on a significant consumer issue in time for 2012 state legislative consideration.

Rep. Keiser agreed that the timing was difficult, but said that any NCOIL model should be fully vetted. He said that it would reflect on NCOIL if the organization passed the model and then discovered mistakes or complications.

The Committee voted 8 to 5 against the motion to defer consideration. Those opposed to deferring were Rep. Botzow, Assem. Calhoun, Rep. Crimm, Rep. Curtiss, Rep. Damron, Del. Morgan, Sen. Simpson, and Sen. Teichman. Supporters of deferral were Rep. Flanders, Rep. Keiser, Assem. Morelle, Sen. Seward, and Rep. Wren.

Rep. Damron then moved to adopt the model, as amended. After receiving a second, the Committee voted 10 to 3 in favor of adoption. This satisfied the bylaws requirement that the Committee needed a two-thirds majority in order to adopt the proposal, as it had been submitted and amended after the 30-day deadline.

Those supporting adoption were Rep. Botzow, Assem. Calhoun, Rep. Crimm, Rep. Curtiss, Rep. Damron, Rep. Flanders, Del. Morgan, Sen. Simpson, Sen. Teichman, and Rep. Wren. Those opposing adoption were Rep. Keiser, Assem. Morelle, and Sen. Seward.

ADJOURNMENT

There being no other business, the Committee adjourned at 6:00 p.m.