

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS  
LIFE INSURANCE & FINANCIAL PLANNING COMMITTEE  
SPECIAL MEETING ON UNCLAIMED BENEFITS MODEL  
BURLINGTON, VERMONT  
JULY 13, 2012  
MINUTES

The National Conference of Insurance Legislators (NCOIL) Life Insurance & Financial Planning Committee met at the Hilton Burlington in Burlington, Vermont, on Friday, July 13, 2012, 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       | Sen. Neil Breslin, NY           |
| Rep. Barry Hyde, AR      | Sen. William J. Larkin, Jr., NY |
| Rep. Ron Crimm, KY       | Rep. George Keiser, ND          |
| Rep. Robert Damron, KY   | Sen. Kevin Bacon, OH            |
| Rep. Joseph Fischer, KY  | Rep. Brian Kennedy, RI          |
| Rep. Tommy Thompson, KY  | Rep. Charles Curtiss, TN        |
| Rep. Don Flanders, NH    | Rep. William Botzow, VT         |
| Sen. Carroll Leavell, NM |                                 |

Other legislators present were:

Sen. David O'Connell, ND

Also in attendance were:

Susan Nolan, Nolan Associates/NCOIL Executive Director  
Candace Thorson, Nolan Associates/NCOIL Deputy Executive Director  
Michael Keegan, Nolan Associates/NCOIL Director of Legislative Affairs – D.C.  
Michael Carroll, Nolan Associates/NCOIL Director of Legislative Affairs

#### PROPOSED MODEL ACT

Rep. Damron reported that the idea for developing an NCOIL *Model Unclaimed Life Insurance Benefits Act*, originally adopted in November 2011, arose after discovering that life insurers were comparing their annuity databases to the U.S. Social Security Death Master File (DMF) but were not using the DMF to identify monies that were rightfully owed to life insurance beneficiaries. By using the DMF for annuities and not life insurance, Rep. Damron commented, life insurers were not engaged in best practices.

Rep. Damron, while praising the original NCOIL model, offered amendments agreed to by the National Association of Unclaimed Property Administrations (NAUPA) and the American Counsel of Life Insurers (ACLI) that he said might make the model more “workable.” He said that the amendments would:

- in Section 3(C), exclude government plans or church plans from the definition of “policy”
- in Section 4(A)(2), make a technical amendment regarding group life insurance
- in Section 4(B), add language ensuring that an insurer or its service provider cannot charge fees to beneficiaries for running a DMF search
- in Section 6 (drafting note 1), add language allowing for an “up to one-year” effective date

Rep. Damron also said that he supported the exclusion of pre-need funeral contracts and credit life insurance in Section 3(C), even though such exclusions were not agreed to by NAUPA and ACLI.

Additionally, Rep. Damron said that he had agreed to sponsor two other proposed amendments supported by ACLI. He said that the two amendments would:

- in Section 3(A), add language further defining the DMF and including a drafting note, in order to acknowledge that Congress frequently changes information in the DMF and to give insurers flexibility to use the DMF info available to them
- in Section 4(A), add language further defining insurer conduct, in order to require insurers to search the DMF Update File on a quarterly basis, and the annual DMF at least once per calendar year

Rep. Damron explained that a quarterly review of the DMF was proper because 1) life companies, including John Hancock and MetLife, had agreed in settlements with state regulators to run quarterly searches and 2) estates are typically settled in a period of six to nine months, and quarterly searches will ensure that estates are not settled before beneficiaries are notified that they are owed money.

Rep. Damron then moved adoption of his proposed amendments.

Rep. Keiser praised interested parties for recognizing the problems associated with using the DMF for annuities and not for life insurance. He also expressed frustration with regulators who assessed large fines against the life insurers for not being diligent enough in identifying beneficiaries of unclaimed benefits. Rep. Keiser said that the life insurers did not engage in any illegal activities and that the millions of dollars in fines they were paying were not being distributed to beneficiaries. Instead, Rep. Keiser said, these monies were going into state treasuries.

Rep. Keiser then introduced two proposed amendments to the model. He said they would:

- in Section 4(A), require insurers to search the DMF at least semi-annually, rather than on a quarterly basis, in an effort to reduce insurer costs
- in Section 6, add a drafting note which would allow “up to one year” for the model to take effect, in an effort to give small insurers that had never used the DMF time to comply

Rep. Wren said that Alabama recently enacted the NCOIL model with minor variations. He said that Alabama’s law provided that insurers must search the DMF on a semi-annual basis and that the effective date of the law was deferred for 18 months.

Mary Jo Hudson of the ACLI said that ACLI supported Rep. Damron’s amendment requiring a quarterly search of the DMF using the Update File. She said that using the Update File limited the number of records searched, which lowered life insurers’ financial and administrative burdens.

Carolyn Atkinson of NAUPA said that NAUPA did not favor the exclusion of pre-need funeral contracts, credit life insurance, or accidental death insurance, since audits showed that unclaimed benefit issues with pre-need funeral contracts were significant. Beth Pearce, NAUPA Senior Vice President and Vermont State Treasurer, then said that NAUPA favored Rep. Damron’s amendment requiring quarterly searches of the DMF but did not support extending the model’s effective date because, she said, an extension would harm consumers. She also said that unclaimed benefits were not a source of revenue for states.

Scott Cipinko of the Consumer Credit Industry Association (CCIA) said that credit life insurance companies should be exempt from the model because it was impossible for them to perform DMF searches. He said certificates of credit life insurance did not identify insureds/consumers by their Social Security Number, name, address, or date of birth. In contrast, he said, lending institutions do have tracking systems already in place for identifying when insureds die.

Gov. Jim Hodges of the National Alliance of Life Companies (NALC) said it was proper to exclude pre-need funeral policies from the model. He said that instances of non-payment on pre-need funeral

policies were remote because a third-party beneficiary, i.e. a funeral home director, was motivated to ensure that a beneficiary received payment on a policy. Additionally, Gov. Hodges said that NALC supported Rep. Damron's amendment to require quarterly searches using the Update File.

Birny Birnbaum of the Center for Economic Justice (CEJ) supported the amendment requiring quarterly searches using the DMF Update File. He said that credit life insurance companies should not be exempt from the model because it was "stunning" to think that the insurers did not know the identity of their insureds. Mr. Birnbaum said, regarding the effective date, that if the goal was to provide relief for smaller insurers, then the drafting note should specifically target small insurers instead of all insurers.

Rep. Damron then said that his amendment would exclude credit life insurance and pre-need funeral policies because, in such cases, a motivated third-party works to ensure that beneficiaries receive their benefits.

Scott Gilliam of the Cincinnati Insurance Company (CIC) said that he works for a small life insurance company that believes that the quarterly search of the DMF was too financially burdensome. He said that engaging in quarterly searches would cause his firm to allocate more resources to hiring administrative staff to search the DMF, decreasing the resources they can commit to settling claims.

Following Committee discussion, the Committee unanimously approved the proposed amendments to Section 3(C), Section 4(A)(2), and Section 4(B), as well as the proposed amendment that would add a drafting note regarding a delayed effective date to Section 6. The Committee approved the draft amendment to Section 4(A) regarding semi-annual searches but declined to approve the proposed Section 4(A) amendment that would have required insurers to search the DMF Update File on a quarterly basis, and the annual DMF at least once per calendar year.

Upon a motion made and seconded, the Committee then unanimously adopted the model law as amended.

#### ADJOURNMENT

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