

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS

Before The
House Judiciary Committee

March 3, 2021

Senate Bill 2048 – An Act Relating to the Uniform Unclaimed Property Law

Chairman Klemin and members of the House Judiciary Committee, the American Council of Life Insurers (ACLI) appreciates the opportunity to offer the following statement on Senate Bill 2048, which would update North Dakota law to incorporate, in substantial part, the most recent version of the Uniform Law Commission's Revised Uniform Unclaimed Property Act (RUUPA).

ACLI members are the leading writers of life insurance, annuities, disability income insurance, long-term care insurance and supplemental benefit insurance here in North Dakota and across the country. Life insurers are also among the many holders of unclaimed property that would be governed and impacted by this legislation.

Our Position

ACLI secured amendments to Senate Bill 2048 in the Senate Industry, Business and Labor Committee to make it consistent and compatible with existing North Dakota insurance law governing unclaimed life insurance benefits in Chapter 26.1-55. Our amendments were supported by the sponsor of the legislation, Senator Hogue, and Insurance Commissioner Godfreed. As amended, ACLI supports the Senate-passed version of Senate Bill 2048.

Background

Originally promulgated by the Uniform Law Commission in 1954, the Uniform Unclaimed Property Act is a comprehensive law governing property that is presumed abandoned or unclaimed and must be remitted to the state. The state unclaimed property administrator acts essentially as a custodian of the property until the rightful owner or, in the case of a life insurance policy, a beneficiary claims it after the policyowner is presumed dead. Various versions of this Uniform Law had been enacted in North Dakota over the years.

Meanwhile, the North Dakota legislature enacted a law in 2013 governing the use by life insurers of the U.S. Social Security Administration's death master file (DMF) for identifying owners of life insurance, annuities or retained asset accounts who may have died (Chapter 26.1-55). Among other things, this law requires life insurers to periodically check its policyholder records against the DMF to determine any potential matches. For each potential match, an insurer is required to complete a good faith effort to confirm the death, determine if benefits are owed the insured or the insured's beneficiaries and assist them with filing claims for the benefits.

If the insurer is unsuccessful in contacting the insured or the insured's known beneficiaries, the property is presumed abandoned and reported to the state pursuant to the state's unclaimed property law in Chapter 47. This legislation was based on a Model Law adopted by the National Conference of Insurance Legislators (NCOIL), which ACLI supports. We appreciate the leadership of Senator Klein and Representative Keiser as they worked to fashion a Model Law at NCOIL that has become widely adopted by the states, including North Dakota.

Three years later, the Uniform Law Commission completed a multi-year effort in 2016 to update its Uniform Unclaimed Property Act. ACLI actively participated in this effort and worked with the Uniform Law Commissioners to make the Revised Act compatible with the NCOIL Unclaimed Life Insurance Benefits Model Act, given the interplay between the operative provisions of both uniform laws regarding life insurer unclaimed property practices. To date, RUUPA has been enacted in some form in five states (Colorado, Kentucky, Tennessee, Utah and Vermont).

We appreciate the efforts by the drafters of Senate Bill 2048 to conform to the letter and spirit of the Uniform Law Commission's RUUPA in most substantive respects. The amendments we sought in the Senate were designed to make the bill consistent with the insurance code and, in the case of Section 2, remove redundant and unnecessary DMF search requirements by the unclaimed property administrator.

DMF Searches and Matches

As introduced, the bill would have authorized the state unclaimed property administrator or its agents to conduct its own DMF searches for the purpose of finding matches. Given the DMF search duties already required of insurers under the insurance code, under the watchful eye of the insurance commissioner, ACLI believes this duplicative requirement was neither necessary nor appropriate.

If the state unclaimed property administrator has reason to believe an insurer is not appropriately conducting DMF searches or escheating unclaimed property to the state, the administrator can always request the insurance commissioner to compel the insurer to explain, justify or correct its DMF search and unclaimed property reporting practices. The North Dakota Insurance Department is one of the lead regulatory agencies overseeing life insurer unclaimed property practices on a national basis, so it already possesses considerable expertise and oversight capabilities.

Since the insurance code was amended in 2013, DMF matches have reduced to *de minimis* numbers as life insurers continue to check their policyholder records on a semi-annual basis. One of top writers of individual life insurance in North Dakota reported a total of 6 unclaimed property claims initiated in 2020 as a result of a DMF match.

One final point worth noting is that the National Association of Insurance Commissioners (NAIC) has developed, with ACLI's support, a Lost Policy Locator, a national system that assists consumers in locating life insurance policies and annuity contracts of a deceased family member or close relationship. When a consumer request is submitted, the NAIC will request life insurers to search their records to determine if a policy in the name of the deceased exists and if so, assist the beneficiary in filing a claim for benefits.

For these reasons, the Senate saw fit not to subject life insurers to duplicative regulatory jurisdiction when existing law and oversight by the insurance department protects the interests of life insurance consumers in the Peace Garden State.

Chairman Klemin and members of the Committee, I appreciate the opportunity you have given us to provide our comments on Senate Bill 2048 and stand ready to answer any questions you may have.

Respectfully submitted,

J. Bruce Ferguson
Senior Vice President, State Relations
American Council of Life Insurers
101 Constitution Avenue NW
Washington, DC 20001
bruceferguson@acli.com
202.624.2385 (office) 301.980.4820 (mobile)